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SURFACE TRANSPORTATION BOARD

HELM-PACIFIC LEASING

505 Sansome Street Suite 1800 San Francisco CA 94111
(415) 398-4010 (415) 398-4010 (fax) www.helm-pac.com

STB E-File

July 28, 2010

Chief
Section of Administration
Office of Proceedings
Surface Transportation Board
Washington, D.C. 20423-0001

RE: NET LEASE AGREEMENT dated as of June 25, 2010 between **HELM-PACIFIC LEASING**, a Nebraska general partnership and **CML METALS CORPORATION**, a Utah corporation pertaining to the lease of 150 rapid discharge open top hopper railcars in series USR 1000-1149 inclusive.

Dear Section Chief:

On behalf of Lessor, I submit for filing and recordation under Section 11301 of Title 49 of the U.S. Code and the regulations promulgated there under the following document:

Fully executed true copy of the above referenced Net Lease Agreement.

In connection with the recording of this Net Lease Agreement, please note the following information:

Name and Address for Lessor: Helm-Pacific Leasing
c/o Helm Pacific Corporation
505 Sansome Street, Suite 1800
San Francisco, CA 94111
Attn: President and COO

Name and Address for Lessee: CML Metals Corporation
6249 West Gilbert
Hurricane, UT 84737
Attn: President

Equipment: One hundred fifty (150) rapid discharge open top hopper railcars in series USR 1000-1149 inclusive.

Please record this Net Lease Agreement as a primary recordation. Please apply the STB's filing fee to Helm-Pacific Leasing's account.

Summary: NET LEASE AGREEMENT dated as of June 25, 2010 between **HELM-PACIFIC LEASING**, a Nebraska general partnership and **CML METALS CORPORATION**, a Utah corporation pertaining to the lease of 150 rapid discharge open top hopper railcars in series USR 1000-1149 inclusive.

Yours truly,

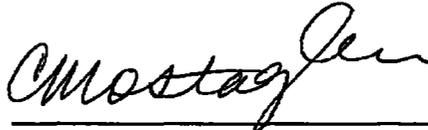
Cecilia Mostaghim

Cecilia Mostaghim
Contract Administrator

Enclosure

CERTIFICATION OF TRUE COPY

On July 28, 2010 I Cecilia Mostaghim, Contract Administrator for Helm-Pacific Leasing, examined the original copy of the NET LEASE AGREEMENT dated as of June 25, 2010 by and between HELM-PACIFIC LEASING, a Nebraska general partnership ("Lessor"), and CML METALS CORPORATION, a Utah corporation ("Lessee"). I hereby certify that I have compared the attached duplicate copy with the original and that it is a complete, true and correct copy of the original in all respects, including the dates, signatures and acknowledgements thereof.



Name: Cecilia C. Mostaghim
Title: Contract Administrator

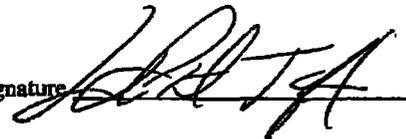
STATE OF CALIFORNIA

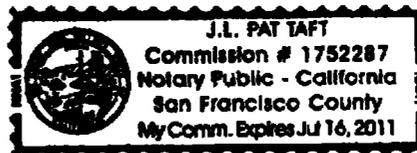
COUNTY OF SAN FRANCISCO

On July 28, 2010 before me, J. L. Pat Taft, personally appeared Cecilia C. Mostaghim, Contract Administrator for Helm-Pacific Leasing, who proved to me on the basis of satisfactory evidence to be the person) whose name is subscribed to the within instrument and acknowledged to me that she executed the same in her authorized capacity, and that by her signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature  (Seal)



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NET LEASE AGREEMENT

SURFACE TRANSPORTATION BOARD

THIS NET LEASE AGREEMENT ("Lease") is dated as of June 25, 2010 between HELM-PACIFIC LEASING, a Nebraska general partnership ("Lessor") and CML METALS CORPORATION, a Utah corporation ("Lessee").

1. **Lease.** Subject to the terms and conditions of this Lease, Lessor hereby leases to Lessee and Lessee hereby leases from Lessor the rail equipment described in Schedule A attached hereto ("Unit(s)"). Notwithstanding anything herein to the contrary, Lessee acknowledges and agrees that this Lease is expressly contingent upon Lessor's purchase of, and acquisition of title to, the Units. Lessee further acknowledges and agrees that if Lessor is unable to enter into a binding contract to acquire title to all of the Units on or before June 30, 2010, then in such case this Lease shall become null and void and neither party shall have any liability to the other under this Lease.

2. **Delivery, Inspection & Acceptance of Units.** Subject to the contingency set forth in Section 1 above, Lessor shall make the Units available to Lessee in two (2) groups of Units (each such group a "Group of Units") at the Progress Rail Services Corporation facility in Decoursey, Kentucky ("Delivery Point"). Each Group of Units will consist of seventy-five (75) Units all of which will be delivered to Lessee at the Delivery Point. The first Group of Units will be delivered to Lessee on or about July 1, 2010 and the second Group of Units will be delivered to Lessee on or about July 15, 2010 (any such date the "Delivery Date" as applicable to each Group of Units). Lessee shall inspect each Group of Units at the Delivery Point and agrees to accept from Lessor all Units which are (i) in compliance with the regulations of the Federal Railroad Administration ("FRA") and the Association of American Railroads ("AAR") rules of interchange then in effect (collectively, "Rules"). Lessee shall declare its acceptance of the Units by executing and delivering to Lessor a "Certificate of Acceptance" as set forth in Exhibit A attached hereto, which shall constitute conclusive evidence of Lessee's acceptance of the Units therein identified and that the Units are in compliance with the Rules. Upon the Delivery Date of each accepted Unit, Lessee shall take possession of and assume control over such Unit. Lessee shall be responsible for all costs associated with the transport of each accepted Unit after the Delivery Date.

3. **Term.** The "Interim Term" of this Lease shall commence for each Unit upon the Delivery Date for such Unit and shall continue in effect until July 31, 2010. The "Fixed Term" of this Lease for all of the Units shall commence on August 1, 2010 and shall continue through and including July 31, 2015 (the Interim Term and Fixed Term are hereinafter referred to collectively as the "Term").

4. **Rent, Security.**

(a) **Rent.** Rent shall commence for each Unit upon the date such Unit is interchanged from the lines of the Union Pacific Railroad Company to Lessee's facility at Iron Springs, UT ("Rent Commencement Date"). Lessee shall pay to Lessor on the first day of each month in advance rent in the amount of [REDACTED] per Unit per month ("Rent"). Rent shall continue in effect for each Unit, until such Unit is returned to Lessor in accordance with the terms of this Lease. Rent shall be pro-rated on a daily basis if the Rent Commencement Date or return date for any Unit is other than on the first day of any month. All payment of Rent shall be made directly to Lessor at its address for notices hereunder. Lessee's obligation to pay all Rent and other sums when due and to otherwise perform its obligations under this Lease is absolute and unconditional, and shall not be subject to any abatement, reduction, set-off, defense, counterclaim, interruption, deferment or recoupment. Each Rent or other payment made by Lessee hereunder shall be final and Lessee shall not seek to recover all or any part of such payment from Lessor. The Rent and other sums payable by Lessee hereunder shall be paid without notice or demand.

(b) **Security.** Lessee, as the client of U.S. Bank National Association (the "Bank"), shall secure from and have issued by the Bank an irrevocable "Letter of Credit" payable to Lessor as the named beneficiary. The Letter of Credit shall include, but not be limited to, the following provisions:

(i) **Duration:** The Letter of Credit shall commence on June 25, 2010 and shall continue in full force and effect through and including August 5, 2013 ("36 Month Period"); and

(ii) **Amount:** The Letter of Credit shall begin in the amount of [REDACTED]. Such amount is equal to twenty-four (24) months Rent for one hundred fifty (150) Units at the rental rate of [REDACTED] per Unit per month; and

(iii) **Event of Default:** If an Event of Default, as defined in Section 18 below, should occur at any time during the 36 Month Period, Lessor shall receive the applicable "Letter of Credit Amount" set forth on the attached Schedule C.

5. **Car Hire Earnings.** Provided that Lessee is not in default under this Lease, Lessor shall pay to Lessee all car hire earnings attributable to the Units (per diem and/or mileage) received by Lessor, if any, until the expiration or earlier

termination of this Lease. If the Units bear reporting marks other than Lessor's, Lessor shall have no responsibility for any car hire earnings and such responsibility shall lie solely with Lessee.

6. **Identification Marks.** Lessee will keep each Unit marked with the identifying mark and number as set forth in Schedule A hereto, and Lessee will not change such mark or number without the prior written consent of Lessor. Lessee will not allow the name of any person or entity or any other mark or logo to be placed upon any Unit without the prior written consent of Lessor.

7. **Taxes.** Lessee shall pay when due (or reimburse to Lessor), and on a net after-tax basis shall indemnify and defend Lessor from and against any and all fees, taxes and governmental charges of any nature including, without limitation, liens, encumbrances, interest, penalties, fines and assessments (collectively, "Taxes") which may now or hereafter be imposed or levied by any foreign, federal, state, provincial or local authority upon this Lease or the Units (including, without limitation, relating to or arising from the transportation, delivery, installation, leasing, possession, use, operation, storage and return of such Units during the Term). The term Taxes shall include any personal property, sales, use, ad valorem or similar taxes applicable to the operation of the Units during the Term. Lessee shall have no responsibility for any Taxes on or measured by Lessor's net income. Lessee will pay promptly all Taxes which may be imposed upon Lessee's income and earnings arising from or connected with this Lease or the Units.

8. **Casualty Occurrence.** During the Term, Lessee hereby assumes all risk of loss, damage, theft, taking, destruction, confiscation, condemnation, requisition or commandeering, partial or complete, of or to each accepted Unit, however caused or occasioned (collectively, a "Casualty Occurrence"). Lessee shall promptly notify Lessor of any Casualty Occurrence and fully inform Lessor in regard thereto. Such notice shall include a settlement value as specified in the Casualty Schedule attached hereto as Schedule B ("Settlement Value"), together with an amount equal to any accrued Rent for such Unit through the date of such Settlement Value payment. Upon Lessee's payment of such Settlement Value and accrued Rent for any Unit, (a) the Rent for such Unit shall cease and this Lease for such Unit shall terminate, and (b) Lessee shall be entitled to ownership and possession of such Unit or the remains thereof on an **as-is, where-is** basis without recourse or warranty. Lessor has the right, but not the obligation, to replace any Unit which suffers a Casualty Occurrence, subject to Lessee's inspection. Lessee shall not be released from the obligation to pay Rent under this Lease with respect to a casualty Unit until the Settlement Value is paid to Lessor. Upon receipt by Lessor of any AAR Rule 107 payment from any railroad with respect to any Unit for which Lessee has paid the Settlement Value, Lessor shall promptly forward such payment to Lessee, provided Lessee is not in default under this Lease.

9. **Inspection.** At the sole expense of Lessor, Lessor or its agent, shall have the right to inspect the Units and Lessee's records with respect thereto at such reasonable times and places as Lessor may request.

10. **Warranties; Waiver.** So long as no Event of Default has occurred and is continuing, Lessor warrants that neither Lessor nor its successors and assigns will interfere with Lessee's quiet enjoyment and use of the Units during the Term. Notwithstanding anything in this Lease to the contrary, **LESSOR LEASES AND LESSEE ACCEPTS THE UNITS AS-IS, AND LESSOR MAKES NO REPRESENTATIONS OR WARRANTIES OF ANY KIND RESPECTING THE UNITS WHETHER STATUTORY, WRITTEN, ORAL OR IMPLIED AND LESSOR HAS NOT MADE AND DOES NOT HEREBY MAKE, NOR SHALL IT BE DEEMED BY VIRTUE OF HAVING LEASED THE UNITS PURSUANT TO THIS LEASE TO HAVE MADE, ANY REPRESENTATION OR WARRANTY AS TO THE MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, DESIGN OR CONDITION OF, OR AS TO THE QUALITY OF WORKMANSHIP IN THE UNITS, ALL OF WHICH ARE EXPRESSLY DISCLAIMED, AND LESSOR SHALL NOT BE LIABLE, IN CONTRACT, TORT OR OTHERWISE, ON ACCOUNT OF ANY MANUFACTURER'S OR OTHER DEFECT, WHETHER HIDDEN, LATENT OR OTHERWISE DISCOVERABLE OR NONDISCOVERABLE RESPECTING ANY UNITS. LESSEE HEREBY WAIVES ANY CLAIM (INCLUDING ANY CLAIM BASED ON STRICT OR ABSOLUTE LIABILITY IN TORT) IT MIGHT HAVE AGAINST LESSOR FOR ANY LOSS, DAMAGE (INCLUDING INCIDENTAL OR CONSEQUENTIAL DAMAGE) OR EXPENSE CAUSED BY THE UNITS. LESSEE ACKNOWLEDGES THAT LESSOR DID NOT MANUFACTURE THE UNITS AND THAT LESSEE ACCEPTS THE UNITS BASED UPON ITS OWN JUDGMENT AND EXPRESSLY DISCLAIMS ANY RELIANCE ON STATEMENTS MADE BY LESSOR OR ITS AGENTS.**

11. **Compliance with Laws and Rules.** Lessee agrees to comply with all laws, rules, regulations, decrees, or orders which apply to the operation or use of any Unit, including, but not limited to the rules and regulations of the AAR, FRA and the Surface Transportation Board ("STB") or any other legislative, executive, regulatory, administrative or judicial body exercising any power or jurisdiction over any such Unit (collectively, "Laws").

12. **Maintenance, Alteration; Accessions.**

(a) **Maintenance.** Commencing on the Delivery Date, Lessee shall pay for all repairs, maintenance and replacement of parts as are necessary to keep each Unit in good working order and repair, and suitable for loading and

interchange in accordance with all applicable Laws. Upon request Lessee shall provide Lessor with copies of all maintenance, cargo and transportation records in its possession pertaining to the Units.

(b) **Alteration; Accessions.** Lessee shall not materially alter, or allow any third party to materially alter, the physical structure of any Unit without the prior written consent of Lessor. All additions, alterations, improvements or replacements to any Unit made by Lessee shall constitute accessions to such Unit and belong to Lessor unless otherwise agreed by the parties in writing.

13. **Insurance.** During the Term and so long as Lessee retains possession of any Unit, Lessee shall maintain: (a) public liability insurance, including, but not limited to, "Broad Form General Liability, Railroad Liability," in a minimum amount of [REDACTED] per occurrence for personal or bodily injury, wrongful death and property damage, in each case for such risks and with such insurance companies as are reasonably satisfactory to Lessor, and (b) Railroad Rolling Stock property insurance on the Units with policy limits equal to [REDACTED] per occurrence (which the parties acknowledge is equal to the maximum aggregate Settlement Value of one unit train comprised of 80 Units) ("RR Rolling Stock Policy"). The term of the RR Rolling Stock Policy shall be twenty-four (24) months less one (1) day with renewal at twelve (12) months after inception at substantially the same terms and conditions. All insurance policies, including the RR Rolling Stock Policy, shall be in the name of Lessee and shall (a) name Lessor as loss payee for the all risk insurance and as additional insured for liability insurance, and (b) provide Lessor with thirty (30) days' prior written notice before coverage lapses, is canceled or materially changes. If Lessee fails to obtain insurance, or if said insurance lapses or is canceled, Lessor has the right to purchase the insurance described above and Lessee shall pay the cost thereof. Lessee's insurance policies shall be primary to any insurance of Lessor, and Lessee shall require its insurers to specifically waive subrogation, claim and recovery against Lessor's insurance. Any deductibles in the above described policies shall be paid by Lessee. Lessee shall furnish to Lessor upon execution of this Lease and thereafter at Lessor's request, Certificates of Insurance evidencing the aforesaid insurance. Lessee shall provide Lessor a certified copy of each insurance policy upon written request.

14. **Indemnification.** Lessee shall indemnify, defend and hold harmless Lessor and its officers, partners, shareholders, affiliates, directors, attorneys, employees and agents from and against any and all costs, expenses, losses, taxes, penalties, obligations, claims, damages, actions or other liabilities (including but not limited to reasonable counsel fees and expenses, and tort and strict liability claims) which Lessor may incur (unless resulting from Lessor's gross negligence or willful misconduct) in any way relating to, arising from or by reason of (a) this Lease or the use, operation, condition, delivery, storage, or return of any Unit, until such Unit is returned to Lessor in accordance with the terms of this Lease, or (b) any accident, personal injury, death, property damage or other liability involving any Unit, on or after the Delivery Date until such Unit is returned to Lessor in accordance with the terms of this Lease. The indemnities hereunder shall survive payment or performance of all other obligations under this Lease or the expiration or earlier termination of this Lease. Lessee shall give Lessor prompt written notice of any event or condition in connection with which Lessor may be entitled to indemnification hereunder.

15. **Financial Information.** Lessee agrees to furnish to Lessor (a) within one hundred twenty (120) days after the close of each fiscal year, its audited consolidated financial statements including its most recent balance sheets, statements of income, retained earnings and changes in financial position for the fiscal year then ended, each prepared in accordance with United States generally accepted accounting principles consistently applied ("GAAP"); all of which shall be certified by Lessee's independent auditors (or if unavailable by the president or chief financial officer), to be complete, correct and in accordance with GAAP subject only to normal year-end auditing adjustments; and (b) promptly from time to time such other information concerning the business, condition and affairs of Lessee as Lessor shall reasonably request.

16. **Liens.** At its sole expense, Lessee will keep the Units or any part thereof free and clear of any and all liens, security interests, charges, claims or other encumbrances ("Liens"), except for any Liens arising by, through or under Lessor. Lessee will promptly pay, satisfy and otherwise take such actions as may be reasonably necessary to keep the Units free and clear of, and to duly discharge, eliminate or bond in a manner satisfactory to Lessor, any Liens which may arise. Lessee will promptly notify Lessor in writing if it has knowledge of any Lien that shall attach to any Unit, and of the full particulars thereof.

17. **Return.**

(a) **Return.** On or about the expiration of the Term Lessee shall return the Units to Lessor at either a location in the Chicago, IL area, or to a location of equal distance as between Iron Springs, UT and Chicago, IL, each as determined by Lessor (any such location the "Return Point"). Lessor shall notify Lessee of the Return Point, and within ten (10) calendar days of receipt of such notice and at its sole expense, Lessee will deliver possession of the Units to Lessor at the Return Point. Lessee shall return each Unit to Lessor (i) in as good condition, order and repair as when delivered to Lessee, ordinary wear and tear excepted; provided, however, that Lessee agrees to be responsible for the repair or replacement of any item which does not meet the specifications and requirements as stated in the Field Manual of the AAR Interchange Rules, (ii) in condition suitable for movement in the interchange system free from all FRA defects and in conformity with all

applicable laws, rules and regulations, (iii) free of AAR Rule 95 damage, and (iv) free from all accumulations from commodities transported in or on it while in the service of Lessee. Lessee shall continue to pay Rent and this Lease shall remain in full force and effect with respect to each Unit until such Unit is returned to Lessor at the Return Point. Lessor will inspect each Unit at the Return Point, and Lessee agrees to pay Lessor within thirty (30) days of receipt of any invoice for any repairs for which Lessee is responsible hereunder. If upon the expiration or earlier termination of this Lease Lessor demands in writing the return of any Unit to the Return Point and Lessee fails to deliver such Unit to the Return Point within ten (10) calendar days of receipt of such notice, Rent shall cease and Lessee shall immediately commence to pay to Lessor (as liquidated damages and not as a penalty) a monthly late fee equal to two hundred percent (200%) of the monthly rental rate for such Unit then in effect until such Unit is delivered to the Return Point. All other terms and conditions of this Lease shall remain in force. The provisions of this Section are without prejudice to, and in addition to, any other remedies of Lessor. If Lessee shall for any reason fail to deliver any Unit to Lessor within ninety (90) days of the expiration of the Term, Lessor shall have the option to declare that such Unit has suffered a Casualty Occurrence.

(b) **Free Storage.** Upon Lessor's request, Lessee shall permit Lessor to store the Units on its own tracks free of charge for a period not exceeding ninety (90) days ("Free Storage Period") after such expiration and shall transport the same to any reasonable place on the lines of railroad operated by Lessee or to any connecting carrier for shipment, all as reasonably directed by Lessor. The movement and storage of such Unit shall be at the expense and risk of Lessee if Lessor has given movement and storage instructions within the Free Storage Period; provided, however, that if Lessor requests Lessee to store any Unit for a period beyond the Free Storage Period, such additional storage shall be at the expense and risk of Lessor. During any storage period Lessee will permit Lessor or Lessor's agent, to inspect the same at such times as Lessor shall reasonably request.

18. Default. Each of the following shall constitute an "Event of Default" under this Lease:

(a) Lessee fails to make any payment of any part of the Rent or any other amount payable to Lessor under this Lease and such nonpayment continues for ten (10) calendar days after the due date thereof;

(b) Lessee shall make or permit any unauthorized assignment or transfer of this Lease or of possession of the Units, or any part thereof;

(c) Lessee fails to perform or observe any term, covenant, condition or agreement contained in this Lease and such failure continues uncured for ten (10) calendar days after written notice thereof from Lessor;

(d) Any representation or warranty made by Lessee in this Lease shall be false or misleading at any time in any material respect;

(e) Lessee ceases doing business as a going concern or transfers all or a substantial part of its assets; or becomes or is adjudicated insolvent or bankrupt, admits in writing its inability to pay its debts as they become due, or makes an assignment for the benefit of creditors; or Lessee applies for or consents to the appointment of any receiver, trustee or similar officer for it or for all or any substantial part of its property; or such receiver, trustee or similar officer is appointed without the consent of Lessee; or Lessee institutes any bankruptcy, insolvency, reorganization, moratorium, arrangement, readjustment of debt, dissolution, liquidation or similar proceeding relating to it under the laws of any jurisdiction, or any such proceeding is instituted against Lessee and is not dismissed within thirty (30) calendar days; or any judgment, writ, warrant or attachment or execution of similar process is issued or levied against a substantial part of Lessee's property and remains unsatisfied for thirty (30) calendar days.

(f) The Letter of Credit as required by Section 4(b) hereof is terminated, revoked, invalidated, suspended or otherwise cancelled prior the expiration of the 36 Month Period, or any term or condition contained in the Letter of Credit is altered, amended or changed in any way without the prior written consent of Lessor in its sole discretion.

19. Remedies.

(a) **Events of Default.** Upon the occurrence of any Event of Default, Lessor may, with or without notice to Lessee, exercise any one or more of the following remedies, as Lessor in its sole discretion shall elect:

(i) proceed by appropriate court action(s) either at law or in equity, to enforce Lessee's performance under this Lease or to recover damages for the breach thereof;

(ii) by notice in writing to Lessee terminate this Lease, whereupon all rights of Lessee to the use of the Units shall absolutely cease and terminate, but Lessee shall remain liable as herein provided;

(iii) require Lessee, at Lessee's expense, to return any or all of the Units in accordance with the return provisions of this Lease, or Lessor or its agent, at its option may in a reasonable manner and without damage to the property

of Lessee or any third party enter upon the premises of Lessee or other premises where any of the Units may be and take possession of all or any of such Units and thenceforth hold, possess and enjoy the same free from any right of Lessee, or its sublessee(s), successors or assigns, to use the Units for any purposes whatsoever;

(iv) declare immediately due and payable all Rents and other amounts due and to become due under this Lease;

(v) sell by public or private sale, release, hold, retain, or otherwise dispose of the Units in any manner Lessor chooses, free and clear of any claims or rights of Lessee; and

(vi) exercise any other right or remedy then available to Lessor at law or in equity.

(b) **Interest.** In the event Lessee shall be in default in the payment of Rent or any other amount due under this Lease, Lessee shall pay Lessor as additional rental interest on such unpaid sum from its due date to the date of payment by Lessee at a rate equal to [REDACTED] per month or the maximum rate permitted by law, whichever is less.

(c) **Cumulative Remedies.** No remedy referred to in this Lease is intended to be exclusive, but each shall be cumulative and concurrent to the extent permitted by law, and shall be in addition to any other remedy referred to above or otherwise available to Lessor at law or in equity. No failure or delay on the part of Lessor to exercise any right or remedy hereunder shall operate as a waiver thereof. No express or implied waiver by Lessor of any default or breach shall constitute a waiver of any other or subsequent default or breach by Lessee. If Lessee fails to pay or otherwise perform any of its obligations under this Lease, Lessor may, but shall not be obligated to, pay such amounts or perform such obligations for the account of Lessee without thereby waiving Lessor's right to declare an Event of Default. In any such event, Lessee shall immediately upon demand reimburse Lessor for any such costs and expenses incurred by Lessor.

(d) **Costs of Default.** In addition to the above and in all cases, Lessee shall be liable for all costs, expenses and damages incurred by Lessor by reason of the occurrence of any Event of Default or the exercise of Lessor's remedies with respect thereto, including, but not limited to, all reasonable attorneys' fees and costs whether or not court proceedings are brought, costs related to the repossession, storage, repair, inspection, and transportation or other disposition of the Units, and all incidental and consequential damages.

20. **Assignment and Use.**

(a) **Assignment by Lessor.** Lessor may, without the consent of and without notice to Lessee, assign or sell its interest in, grant a security interest in, or otherwise transfer in whole or in part this Lease, any Unit or any of its rights, interests or obligations with respect thereto, including, without limitation, all Rent and other sums due or to become due to one or more persons or entities. Lessee shall be under no obligation to any assignee of Lessor except upon written notice of such assignment from Lessor. In conjunction with any assignment of this Lease by Lessor, Lessee hereby agrees to promptly provide any reasonable documentation requested by Lessor. Lessee shall not assert against any assignee any claim, defense, counterclaim or set-off that Lessee may at any time have against Lessor.

(b) **Assignment by Lessee.** So long as Lessee shall not be in default hereunder, Lessee may with the prior written consent of Lessor, at Lessor's sole discretion, sublease or assign any one or more of the Units. For purposes hereof an assignment shall be deemed to include any sale, transfer or assignment of this Lease by operation of law or otherwise or any material change in the beneficial ownership of Lessee. Without the prior written consent of Lessor, Lessee may not otherwise transfer or encumber its leasehold interest under this Lease in the Units and Lessee shall not part with the possession or control of, or suffer or allow to pass out of its possession or control, any of the Units.

(c) **Restrictions on Use.** Lessee covenants and agrees at all times that: (i) Lessee will not sublease or assign this Lease to any person or entity that is not a United States citizen or incorporated under the laws of a state of the United States, (ii) Lessee will not use or operate the Units outside of the United States (other than incidental and temporary use in Canada not to exceed ninety (90) days in any one year period), and (iii) Lessee will use and operate the Units only in the ordinary conduct of its business by qualified employees of Lessee and in accordance with all applicable operating instructions for any Unit, including, but not limited to, the cargo weight limits stenciled on each Unit. Lessee agrees to not load or use any Unit to transport any hazardous material or substance as defined in any foreign, federal, state or local law, rule or regulation.

21. **Representations & Warranties of Lessee.** Lessee represents and warrants to Lessor that (a) Lessee is a corporation duly organized, validly existing and in good standing under applicable state law, with adequate corporate power to enter into this Lease; (b) this Lease has been duly authorized, executed and delivered by Lessee and constitutes a valid, legal and binding agreement, enforceable in accordance with its terms; (c) the execution and performance of this Lease will not contravene, breach or create a material default under any legal, organizational or contractual obligation of Lessee or any law, rule, regulation, judgement or order binding upon Lessee or its property; (d) there are no pending or threatened actions

or proceedings before any court or administrative agency that could have a material adverse effect on Lessee, nor is Lessee in default under any material loan, lease or purchase obligation; and (e) the financial statements and other information furnished and to be furnished to Lessor are and will be true and correct.

22. **Notices.** Any notices given or required to be given hereunder shall be sufficient if transmitted and received by facsimile (with a confirmation copy sent by overnight air courier or certified mail), sent by overnight air courier, or deposited in the United States mail, postage prepaid, certified, return receipt requested, to the addresses set forth below or at such other address as the parties shall have specified in writing:

If to Lessor:

Helm-Pacific Leasing
c/o Helm Pacific Corporation
505 Sansome Street, Suite 1800
San Francisco, CA 94111
FAX: (415) 398-4816
ATTN: President and COO

If to Lessee:

CML Metals Corporation
6249 West Gilbert
Industrial Court
Hurricane, UT 84737
FAX: (435) 627-1411
ATTN: President

23. **Miscellaneous.**

(a) **Further Assurances.** Upon Lessor's request and at its sole expense, Lessee shall promptly execute, acknowledge and deliver such further documents, and take any and all other action reasonably requested by Lessor from time to time as is necessary for the purpose of effectuating the intent and purposes of this Lease, as required by law or to protect the interests of Lessor in the Units and this Lease, including, without limitation, a Memorandum of Lease to be filed with the STB and UCC-1 Financing Statements.

(b) **Severability.** If any term, provision, covenant or restriction of this Lease is held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, provisions, covenants and restrictions shall remain in full force and effect and shall in no way be affected, impaired or invalidated. It is hereby stipulated and declared to be the intention of the parties hereto that they would have executed the remaining terms, provisions, covenants and restrictions without including any of such which may be hereafter declared invalid, void or unenforceable.

(c) **Entire Agreement; Amendment.** This Lease, together with all exhibits and schedules attached hereto, contains the entire agreement of the parties regarding the subject matter hereof and supersedes all other agreements and understandings, oral or written, with respect thereto. This Lease may not be amended, modified or changed, or any provision of this Lease waived, except by instruments in writing signed by the parties hereto. No course of dealing between the parties will be deemed to modify, amend or discharge any part of this Lease or any rights or obligations of any party.

(d) **Successors and Assigns.** This Lease will bind and inure to the benefit of the respective successors and permitted assigns of the parties hereto.

(e) **Counterparts.** This Lease and any documents collateral thereto may be executed in any number of counterparts and each such counterpart hereof shall be deemed to be an original, but all such counterparts taken together shall constitute but one agreement.

(f) **Law Governing; Waiver of Jury Trial.** This Lease shall be construed and enforced, in accordance with the laws of the State of California, without reference to its choice of law provisions; provided, however, that the parties shall be entitled to all rights conferred by 49 U.S.C. 11301. **THE PARTIES EACH IRREVOCABLY WAIVE THEIR RESPECTIVE RIGHTS TO A TRIAL BY JURY IN CONNECTION WITH ANY MATTER RELATING DIRECTLY OR INDIRECTLY TO THIS LEASE OR THE UNITS WHETHER WITH RESPECT TO CONTRACT CLAIMS, TORT CLAIMS OR OTHERWISE. THIS WAIVER SHALL APPLY TO ANY SUBSEQUENT AMENDMENTS, RENEWALS, SUPPLEMENTS OR MODIFICATIONS TO THIS LEASE.**

(g) **Construction.** The language used in this Lease will be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against either party. Lessee acknowledges that it has been represented by counsel in connection with this Lease or that it has voluntarily declined to seek representation by counsel. Lessee has not received nor is Lessee relying on advice concerning tax and legal matters from Lessor or its counsel.

(h) **Brokers.** Each party represents and warrants that it has not employed, authorized or appointed a broker in connection with the transactions contemplated by this Lease.

(i) **Survival.** The respective representations, warranties, indemnities, covenants, obligations and agreements of the parties shall survive the expiration or earlier termination of this Lease or any extensions thereof.

(j) **Attorneys' Fees.** If any legal action is brought for the enforcement of this Lease or because of an alleged dispute, breach, default or misrepresentation in connection with any of the provisions of this Lease, the successful or prevailing party shall be entitled to recover reasonable attorneys' fees and other costs incurred in such action or proceeding.

IN WITNESS WHEREOF, the parties hereto have caused this Lease to be executed by their duly authorized representative as of the day and year first above written.

LESSOR

LESSEE

HELM-PACIFIC LEASING

CML METALS CORPORATION

By: Helm Pacific Corporation, a
General Partner

By: Courtney A. Williams
Name: Courtney A. Williams
Title: President and COO

By: Dale Gilbert
Name: Dale Gilbert
Title: president / CEO

By: Union Pacific Venture Leasing,
Incorporated, a General Partner

By: Ed Weber
Name: Ed Weber
Title: President

Ed

SCHEDULE A

To the Net Lease Agreement dated June 25, 2010 between Helm-Pacific Leasing and CML Metals Corporation.

THE UNITS

Description of Units: 150, 100-ton, 4000 cubic foot capacity, aluminum rapid discharge RDII open top hopper railcars built by Trinity Industries in 1991.

Unit Marks and Numbers: USR 1000-1149

SCHEDULE C

To the Net Lease Agreement dated June 25, 2010 between Helm-Pacific Leasing and CML Metals Corporation.

Letter of Credit/Security-Event of Default terms			
Lease Rent Rate Per Carc Per Month		\$	██████
Unit Count		X 150	
Total Monthly Payment		\$	██████
Event of Default Occurrence (Lease Term Period by Month)	Rent Payment Months (Remaining)	Letter of Credit Payment Months (Remaining)	Letter of Credit Payment Amount
0 - 1	24	36	████████████████████
2	24	35	████████████████████
3	24	34	████████████████████
4	24	33	████████████████████
5	24	32	████████████████████
6	24	31	████████████████████
7	24	30	████████████████████
8	24	29	████████████████████
9	24	28	████████████████████
10	24	27	████████████████████
11	24	26	████████████████████
12	24	25	████████████████████
13	24	24	████████████████████
14	23	23	████████████████████
15	22	22	████████████████████
16	21	21	████████████████████
17	20	20	████████████████████
18	19	19	████████████████████
19	18	18	████████████████████
20	17	17	████████████████████
21	16	16	████████████████████
22	15	15	████████████████████
23	14	14	████████████████████
24	13	13	████████████████████
25	12	12	████████████████████
26	11	11	████████████████████
27	10	10	████████████████████
28	9	9	████████████████████
29	8	8	████████████████████
30	7	7	████████████████████
31	6	6	████████████████████
32	5	5	████████████████████
33	4	4	████████████████████
34	3	3	████████████████████
35	2	2	████████████████████
36	1	1	████████████████████

EXHIBIT A

To the Net Lease Agreement dated June 25, 2010 between Helm-Pacific Leasing and CML Metals Corporation.

CERTIFICATE OF ACCEPTANCE

The undersigned, a duly authorized representative of CML Metals Corporation ("Lessee"), does hereby certify that he/she has caused to be inspected and, on the date set out below, has accepted on behalf of Lessee the following units of equipment, which units Lessee hereby acknowledges are in good order, condition and repair and conform in all respects to the terms, provisions, requirements and standards of that certain Net Lease Agreement dated as of June 25, 2010, between Helm-Pacific Leasing and Lessee.

Equipment Description: One hundred fifty (150), 100-ton, 4000 cubic foot capacity, aluminum rapid discharge RDII open top hopper railcars built by Trinity Industries in 1991.

Specifications for Trinity Built RD II Aluminum Body Hopper Cars:

Builder	Trinity
Built	1991
Light Weight	50,500
GRL	270,000
Clearance	Plate "B"
Truck Centers	40-6
Length Over Strikers	50-5
Length Over Pulling Face of Coupler	53-1/2
Extreme Height	13-6
Extreme Width	10-8
Inside Width	9-10.1/2
Slope Sheet	45 deg
Pockets	5
Door Cylinders	1
Trucks	Ride Master/S2HD
Brake Beams	#18
Couplers	M&T
Yokes	Y44
Draft Gear	MK 50
Air Brake	ABDX w/8.5 x 12 cyl

Notes:

All dimensions are approximate.

All specialties are as built and may have been changed.

Unit Numbers:

USR 1000 - 1149

Acceptance Date & Location:

June 10, 2010 at Progress Rail Facility - DeCoursey, KY

**LESSEE'S AUTHORIZED REPRESENTATIVE:
CML METALS CORPORATION**

By: _____

Print Name: _____

Title: _____

Date: _____