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 CENTURY ALUMINUM COMPANY and
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21 Attorneys for Defendant
 22 AGCS MARINE INSURANCE COMPANY

23 **UNITED STATES DISTRICT COURT**
 24 **NORTHERN DISTRICT OF CALIFORNIA**
 25 **OAKLAND DIVISION**

26 CENTURY ALUMINUM COMPANY and
 27 NORDURAL EHF,
 28 Plaintiff,
 v.
 AGCS MARINE INSURANCE
 COMPANY,
 Defendant.

Case No. CV 11-2514 YGR

[PROPOSED] ORDER

Trial Date: December 3, 2012

The Hon. Yvonne Gonzalez Rogers

Pursuant to this Court's March 2, 2012 (Doc. 78) Order, Defendant supplied plaintiffs' counsel a list of all claim categories and subsets that may contain ocean marine cargo claim files that AGCS accepted and paid from January 1, 2009 to the present involving sea conditions less

1 severe than level 7 on the Beaufort scale (whether or not the scale is referenced in the files
2 themselves) and proposed search criteria for electronic and manual searching of files to identify
3 such claims files. Defendant identified the following “loss description” categories as containing
4 potentially relevant files: (1) rough handling, (2) general average/salvage, (3) collision,
5 derailment, overturn, (4) water damage, (5) sinking, (6) earthquake and tidal wave, (7) winds
6 from hurricanes, cyclone, other, (8) contact with sea water, heavy W, (9) heavy weather, (10)
7 jettison and washing overboard, and (11) sea water damage. In total, defendant asserts that there
8 are approximately 7,000 claim files within those categories, and that there is no way to reduce
9 that claim count except by a manual review of claim files to determine to what extent each loss
10 involved sea conditions less severe than level 7 on the Beaufort scale.
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14 On the basis of the foregoing, in view of the burden such a manual review would involve,
15 and the parties having agreed, subject to and conditioned on the approval and further order of this
16 Court approving and ordering such procedure,

17 IT IS HEREBY ORDERED as follows:

18 1. Claims electronically designated as (2) general average/salvage, (4) water damage,
19 (5) sinking, (7) winds from hurricane, cyclone, other, (8) contact with sea water heavy W, (9)
20 heavy weather, (10) jettison and washing overboard, and (11) sea water damage, shall be
21 manually reviewed by counsel for defendant and all claims accepted and paid from January 1,
22 2009 to the present involving sea conditions less severe than level 7 on the Beaufort scale
23 (whether or not the scale is referenced in the files themselves) produced to plaintiffs in
24 accordance with paragraph 2 of the Order of March 2, 2012 (Doc. 78), and
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26 2. Defendants shall supply either electronic or paper copies of claims files designated
27 in defendant’s electronic systems as resulting from “rough handling” to attorneys for plaintiffs
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1 without the notification to assureds and redaction of non-relevant confidential information
2 required in item 2 of Doc. 78. These files need not be Bates stamped and shall be provided to
3 plaintiffs' counsel on the basis that they (1) shall be "for plaintiffs' attorneys' eyes only",
4 although they need not be individually so marked, (2) will be reviewed only by plaintiffs' counsel
5 and no one else shall read, record or otherwise be allowed access to such files, (3) that no copies
6 of such files or any part thereof shall be made, (4) that such production shall be without prejudice
7 to or waiver of any privilege respecting such files and all or any part thereof, and (5) without
8 prejudice to or waiver of the right of defendant to redact non-relevant, confidential information in
9 accordance with item 2 of Doc. 78 and/or privileged information, and
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11 3. Plaintiffs' attorneys shall manually review these files referenced in paragraph 2
12 above which comprise approximately 6,000 files to determine which, if any, involve sea
13 conditions less severe than level 7 on the Beaufort scale (whether or not the scale is referenced in
14 the files themselves) and shall designate a reasonable number of such files for production by
15 defendant in accordance with item 2 of Doc. 78. If the parties disagree as to what constitutes a
16 reasonable number they shall meet and confer and if unable to resolve their differences submit
17 them to the Court, and
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19 4. Upon completion of their review, plaintiffs' counsel shall forthwith return to
20 defendant's counsel all claims files provided by defendant to plaintiffs' counsel that are not
21 designated for production pursuant to paragraph 3 above. Plaintiffs' counsel shall retain those
22 files designated for production by it until such time as production copies of those files are
23 provided to plaintiffs' counsel by defendant. Upon receipt of production copies of such files,
24 plaintiffs' counsel shall return the "for plaintiffs' attorneys' eyes only" claims files to defendant's
25 counsel forthwith.
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IT IS SO ORDERED.

Dated: March 13, 2012



HON. YVONNE GONZALEZ ROGERS
UNITED STATES DISTRICT COURT JUDGE

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