



## MASTER PURCHASE AGREEMENT

The parties named in the Customer Order agree that the sales of all rigging, materials, and any other equipment (collectively, the “Equipment”) by DCL Mooring and Rigging, a Division of Dreyfus-Cortney, Inc. (“DCL”) are governed by the terms of this Master Purchase Agreement:

### 1. Equipment and Price

- A. DCL shall provide the Equipment described in the Customer Order requested by CUSTOMER at the prices set forth therein. In the event that no pricing is set forth in the Customer Order, such pricing shall be the price(s) set forth in DCL’s standard pricing index as in existence at the time that the Customer Order is issued by CUSTOMER. CUSTOMER acknowledges that DCL’s standard pricing index will be updated from time to time and is available upon request.
- B. DCL shall not be under any obligation to provide the Equipment to Customer until such time that DCL has provided written or verbal acceptance of such Customer Order.
- C. Payment for the Equipment is to be made by CUSTOMER to DCL within thirty (30) days of delivery of the Equipment, unless alternative payment terms are specifically agreed to in writing by DCL. Failure to pay any uncontested invoice when due shall result in a late charge of 1.5% of the unpaid amount of the invoice per month for each month that the invoice remains unpaid.

### 2. Indemnity and Hold Harmless

- A. DCL shall and does hereby release, indemnify, defend and hold harmless CUSTOMER, its parent, officers, directors, agents, employees, members, managers, subsidiaries, affiliates and successors (hereinafter collectively referred to as “CUSTOMER Indemnitees”) against any and all liability, claims, demands, losses, suits, liens, causes of action of every kind and character and the costs thereof including, without limitation, court costs, any other litigation expenses, attorneys’ fees, settlements and judgments, for personal injury (including, but not limited to, claims, demands, or suits for bodily injuries, emotional and psychological injuries, illnesses, diseases, death, loss of services, loss of society, diminished earnings capacity, maintenance and cure, wages or worker's compensation) or property loss or damage which may be brought against CUSTOMER Indemnitees by DCL, DCL’s invitees, DCL’s representatives, DCL’s contractors, DCL’s subcontractors, or their respective employees, officers, or agents, and which are alleged

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to arise out of, in connection with, or result from the Equipment. DCL agrees to defend and indemnify CUSTOMER Indemnitees whether the suit or claims are occasioned, brought about, or caused in whole or in part by the negligence, fault or strict liability of CUSTOMER Indemnitees. DCL also agrees to indemnify the CUSTOMER Indemnitees for all costs, expenses and attorney's fees incurred by DCL Indemnitees in the enforcement of this paragraph.

- B. CUSTOMER shall and does hereby release, indemnify, defend and hold harmless DCL, its parent, officers, directors, agents, employees, members, managers, subsidiaries, affiliates and successors (hereinafter collectively referred to as "DCL Indemnitees") against any and all liability, claims, demands, losses, suits, liens, causes of action of every kind and character and the costs thereof including, without limitation, court costs, any other litigation expenses, attorney's fees, settlements and judgments, for personal injury (including, but not limited to, claims, demands, or suits for bodily injuries, emotional and psychological injuries, illnesses, diseases, death, loss of services, loss of society, diminished earnings capacity, maintenance and cure, wages or worker's compensation) or property loss or damage which may be brought against DCL Indemnitees by CUSTOMER, CUSTOMER's invitees, CUSTOMER's representatives, CUSTOMER's contractors, CUSTOMER's charterers, CUSTOMER's insurers or their respective employees, officers, principals, or agents, and which are alleged to arise out of, in connection with, or result from the Equipment. CUSTOMER agrees to defend and indemnify DCL Indemnitees whether the suit or claims are occasioned, brought about, or caused in whole or in part by the negligence, fault or strict liability of DCL Indemnitees. CUSTOMER also agrees to indemnify the DCL Indemnitees for all costs, expenses and attorneys' fees incurred by DCL Indemnitees in the enforcement of this paragraph.
- C. The indemnification provisions set forth in this Article shall survive termination of this Master Purchase Agreement.

### **3. Shipment / Delivery of the Equipment**

- A. CUSTOMER acknowledges that a substantial part of the Equipment may be delivered to CUSTOMER or CUSTOMER's nominated facility. Any time quoted for delivery of the Equipment is an estimate only. DCL is not liable for any loss or damage arising from any delay in filling or completing any Customer Order. No delay in the shipment or delivery of the Equipment to CUSTOMER shall relieve the CUSTOMER from its obligations under this Master Purchase Agreement or the Customer Order.

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- B. CUSTOMER shall promptly inspect the Equipment upon its delivery.
- C. If CUSTOMER determines that the Equipment is damaged or is otherwise not in conformance with the specifications set forth in the Customer Order, CUSTOMER shall inform DCL in writing within three (3) business days of delivery of the Equipment, describing the damage or discrepancy with the specifications set forth in the Customer Order.
- D. DCL will provide instructions to CUSTOMER concerning repair or replacement of the Equipment.
- E. CUSTOMER shall safely guard and keep any Equipment delivered to CUSTOMER or CUSTOMER's nominated location as bailee. Possession, garde, and risk of loss to the Equipment shall transfer to CUSTOMER upon physical delivery of the Equipment to CUSTOMER or CUSTOMER's nominated location. Title to the Equipment shall not pass to CUSTOMER until payment of the purchase price and all other sums due for the Equipment has been made to DCL in full, including any applicable taxes and freight charges.
- F. The failure to notify DCL in writing of any items damaged or not otherwise in conformance with the specifications set forth in the Customer Order within three (3) business days of delivery of the Equipment shall result in CUSTOMER's waiver of any such claim, and the Equipment shall irrevocably be deemed satisfactory to CUSTOMER and in conformance with the specifications set forth in the Customer Order.

#### 4. **Warranty (New Equipment Only)**

- A. DCL warrants to CUSTOMER that all new Equipment manufactured by DCL shall conform to the specifications set forth in the Customer Order for a period of six (6) months (the "**Warranty Period**").
- B. The Warranty Period shall commence upon the date of delivery of the Equipment to CUSTOMER or CUSTOMER's nominee. In the event that CUSTOMER has requested that DCL delay delivery of the Equipment to CUSTOMER or otherwise store the Equipment at DCL's facility until delivery is requested by CUSTOMER, DCL shall be considered to be CUSTOMER'S nominee for purposes of commencement of this Warranty.

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- C. No warranty is provided with respect to Equipment manufactured by third parties; CUSTOMER agrees to hold DCL harmless for any defects therein. However, DCL agrees to assign (to the extent to which it may validly do so) to CUSTOMER or as CUSTOMER may direct, all of the right, title and interest of DCL in and to all guarantees or warranties given by the manufacturer or supplier of any of the Equipment not manufactured by DCL. CUSTOMER agrees to look solely to the manufacturer or supplier of such Equipment not manufactured by DCL for any defects therein.
- D. At DCL's sole option, DCL may either send a technician to inspect the item covered under this Warranty, or DCL may direct CUSTOMER to return the defective or nonconforming portion of the Equipment to DCL for repair or replacement.
- i. Service hours associated with transportation and utilization of a DCL technician for inspection, replacement or repair of the defective or non-conforming portion of the Equipment aboard the vessel or otherwise offsite shall be payable by CUSTOMER at DCL's then current time and material rates.
  - ii. Return of the Equipment to DCL shall not be allowed unless expressly authorized by DCL in writing. If it shall become necessary to return any portion of the Equipment to DCL for repair or replacement, CUSTOMER shall arrange for shipment with a commercial courier and provide DCL with the relevant tracking information. The Equipment shall remain at CUSTOMER'S sole risk.
- E. Repair or replacement of the defective or nonconforming portion of the Equipment arising during the Warranty Period shall be CUSTOMER's sole and exclusive remedy for defects in the Equipment. Physical damage to any property not listed in the Customer Order is specifically excluded from this warranty.
- F. Notwithstanding the foregoing, this warranty shall be void in the event that CUSTOMER fails to pay the purchase price and all other sums due to DCL for the Equipment, including any applicable taxes and freight charges, in full. Additionally, DCL's maximum obligation under this warranty shall not exceed the actual purchase price paid by CUSTOMER for the Equipment that is the subject of the warranty claim as set forth in the Customer Order.
- G. This warranty shall not apply and shall be void to any damage or defect that results (in whole or in part) from abuse, neglect or failure to follow the recommended rating, usage or maintenance requirements for the Equipment under warranty, including any

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recommendations set forth by OSHA or the American Petroleum Institute. Any defects arising from alteration or attempted repair of the Equipment shall void this warranty.

- H. The warranty contained in this Section 4 is the sole and exclusive warranty provided by DCL to CUSTOMER, and replaces any other liability, guarantee, warranty and/or condition imposed or implied upon DCL by law.

## **5. Warranty (Used Equipment)**

- A. No warranty is provided for any used Equipment provided by DCL, and CUSTOMER acknowledges that its purchase of any used Equipment shall be, “as-is, where-is,” with full waiver of any and all warranty claims under Louisiana law.
- B. For used Equipment, DCL makes no representations or warranties: (i) with respect to the quality, efficiency or performance of the used Equipment, (ii) that the used Equipment is fit for its ordinary purpose, or (iii) that the used Equipment is fit for its intended purpose.
- C. CUSTOMER assumes the risks of any latent or hidden defects in: (i) the used Equipment, and (ii) any structure or property on which the used Equipment is installed.
- D. Transfer of ownership to the used Equipment is with an express waiver of redhibition under La. Civil Code art. 2520, an express waiver that the used Equipment is fit for its ordinary use under La. Civil Code art. 2524, and waiver of any and all express and implied warranties under general maritime and Louisiana law.

## **6. All Sales are Final**

- A. All sales are final. DCL will not accept any return of Equipment or refund the purchase price, for any reason, other than as specifically set forth under this Agreement.
- B. Any cancellation of an order for Equipment requested by CUSTOMER prior to its delivery is subject to approval by DCL in its sole discretion, and may be subject to a cancellation fee.
- C. Any credits issued to CUSTOMER by DCL shall expire within one hundred twenty (120) days after its issuance without further notice from DCL.

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## 7. Waiver of Consequential Damages

- A. CUSTOMER shall not be liable to DCL for any incidental, special, consequential or other indirect damages, including loss of profit or revenue, lost production or cost of delay, loss of use, demurrage or deviation, or for punitive or exemplary damages, whether or not the parties were aware of the possibility of their occurrence, and regardless of cause, whether based on tort (including negligence), breach of contract, strict liability or otherwise.
- B. DCL shall not be liable to the CUSTOMER for any incidental, special, consequential or other indirect damages, including loss of profit or revenue, lost production or cost of delay, loss of use, demurrage or deviation, or for punitive or exemplary damages, whether or not the parties were aware of the possibility of their occurrence, and regardless of cause, whether based on tort (including negligence), breach of contract, strict liability or otherwise.

## 8. Proprietary Technical Materials

- A. Documentation, maintenance manuals and drawings relating to the Equipment (collectively, “**Proprietary Technical Materials**”) that DCL may furnish shall be in CUSTOMER’s possession pursuant only to a restrictive, nonexclusive license under which CUSTOMER may use such Proprietary Technical Materials solely for the purpose of operating or maintaining the Equipment and for no other purpose. Title to and ownership of the Proprietary Technical Materials shall remain with DCL. CUSTOMER agrees to maintain the confidentiality of all Proprietary Technical Materials and to instruct and obligate its employees to do the same. Without limiting the generality of the foregoing, CUSTOMER may not: (i) reproduce, replicate or copy any Proprietary Technical Materials, or transfer, assign, sublicense, loan, disclose or otherwise make available all or any portion of such Proprietary Technical Materials to any other person or entity, or (ii) use such Proprietary Technical Materials for any purpose other than operating, servicing or repairing the Equipment.

## 9. Choice of Law and Attorney’s Fees

- A. This Master Purchase Agreement is governed by the general maritime law, or if general maritime law is inapplicable, it shall be governed by Louisiana state law.
- B. In the event of any dispute arising out of the Equipment performed by DCL, the initiating party shall prepare a written statement outlining the nature of the dispute. The other

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party will provide a written response within ten (10) business days. Thereafter, if the dispute cannot be resolved, either party may initiate litigation, which shall only be brought in the Eastern District of Louisiana, or if that court does not have subject matter jurisdiction over the dispute, in the 24<sup>th</sup> Judicial District Court for the Parish of Jefferson, State of Louisiana.

- C. In the event that it becomes necessary for DCL to retain an attorney in connection with collection of past due amounts owed by CUSTOMER, or to otherwise enforce the terms of this Master Purchase Agreement (including any defenses or claims for indemnity), CUSTOMER shall pay, in addition to all other sums owed to DCL, DCL's actual attorney's fees and costs incurred.

## 10. Entire Agreement

- A. This Master Purchase Agreement, along with the terms contained in the Customer Order, constitutes the entire agreement between the parties, and may not be altered or amended without the express written agreement signed by both parties. No other agreements, promises, correspondence, terms or conditions, express or implied, exists or are binding on the parties hereto with respect to the Equipment. In the event of a dispute or inconsistency between this Master Purchase Agreement and the Customer Order, the parties agree that the terms of this Master Purchase Agreement shall govern.
- B. This Master Purchase Agreement is subject to the Louisiana Uniform Electronic Transactions Act, La. R.S. 9:2601, *et seq.* DCL and CUSTOMER have previously agreed to transact the purchase and sale of Equipment by electronic means. DCL and CUSTOMER acknowledge receipt of this Master Purchase Agreement, and hereby incorporate the terms of this Master Purchase Agreement into all quotations, Customer Orders, invoices, purchase orders and all purchases and sales of Equipment.

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