



## MASTER VENDOR AGREEMENT

The parties named in the Purchase Order agree that the purchase of all materials, equipment, and/or any services set forth in a Purchase Order (any of which shall be defined as the “Equipment”)<sup>1</sup> issued by DCL Mooring and Rigging, a Division of Dreyfus-Cortney, Inc. (“DCL”) to VENDOR are governed by the terms of this Master Vendor Agreement:

### 1. Equipment and Price

- A. VENDOR shall provide the Equipment described in the Purchase Order requested by DCL at the prices set forth therein. The terms of this Master Vendor Agreement and the Purchase Order shall govern the sale of Equipment from VENDOR to DCL. Any additional, contrary, or different terms contained in any of VENDOR’s confirmations, invoices, or other communications are specifically rejected by DCL, and will not modify this Master Vendor Agreement.
- B. DCL shall not be under any obligation to purchase any Equipment from VENDOR until such time that DCL has provided a Purchase Order to VENDOR.
- C. DCL is not obligated to purchase any minimum quantities from VENDOR under this Master Vendor Agreement.
- D. Payment for the Equipment is to be made by DCL within sixty (60) days of the later of either the acceptance of the Equipment or presentment of a true and correct invoice accurately reflecting sums owed by DCL. Failure to pay any uncontested invoice when due shall result in an interest charge of .25% of the unpaid amount of the invoice per month for each month that the invoice remains unpaid for more than 120 days.

### 2. Indemnity and Hold Harmless

- A. DCL shall and does hereby release, indemnify, defend and hold harmless VENDOR, its parent, officers, directors, agents, employees, members, managers, subsidiaries, affiliates and successors (hereinafter collectively referred to as “VENDOR 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

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<sup>1</sup> For purposes of this Master Vendor Agreement, the definition of “Equipment” includes services provided by Vendor, regardless of whether any goods or materials are sold by Vendor to DCL.

This Master Vendor Agreement is subject the Louisiana Uniform Electronic Transaction Act, La. R.S. 9:2601, *et seq.* The parties to this Master Vendor Agreement agree to transact the purchase and sale of Equipment by electronic means.



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 VENDOR Indemnitees by DCL or its respective employees, officers, or agents, and which are alleged to arise out of, in connection with, or result from the Equipment. DCL agrees to defend and indemnify VENDOR 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 VENDOR Indemnitees. DCL also agrees to indemnify the VENDOR Indemnitees for all costs, expenses and attorney's fees incurred by DCL Indemnitees in the enforcement of this paragraph.

- B. VENDOR shall and does hereby release, indemnify, defend and hold harmless DCL, its parent, its customers, and all of their 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 VENDOR, VENDOR's invitees, VENDOR's representatives, VENDOR's contractors, VENDOR's subcontractors, VENDOR's insurers, DCL customers, or their respective employees, officers, principals, or agents, and which are alleged to arise out of, in connection with, or result from the Equipment. VENDOR 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. VENDOR 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 Vendor Agreement.

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### 3. Shipment / Delivery of the Equipment

- A. VENDOR shall properly pack, mark and ship Equipment in accordance with applicable law and applicable industry standards. VENDOR shall provide DCL with shipment documentation referencing the Purchase Order, number of pieces in the shipment, number of containers in the shipment, VENDOR's name, the air waybill / bill of lading number, and the country of origin.
- B. If any part of the Equipment received by DCL is unsatisfactory (nonconforming, damaged, defective or otherwise), then DCL shall have the right to either accept or reject all or any portion of the Equipment in its sole discretion. Within ten (10) business days of receipt of the Equipment at a DCL facility or DCL nominated location, DCL shall notify VENDOR of receipt of any unsatisfactory Equipment, and whether DCL is rejecting any portion of the Equipment. If DCL requires replacement of the Equipment, VENDOR shall, at its sole expense, replace the nonconforming Equipment and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective Equipment and the delivery of replacement Equipment. Any inspection or other action by DCL under this Section shall not reduce or otherwise affect VENDOR's obligations under this Agreement, and DCL shall have the right to conduct further inspections after VENDOR has carried out its remedial actions.
- C. VENDOR shall safely guard and keep any Equipment to be delivered to DCL or DCL's nominated location as DCL's bailee. Possession, garde, and risk of loss of the Equipment shall transfer to DCL only upon physical delivery of the Equipment to a DCL facility or DCL's nominated location.
- D. VENDOR shall deliver the Equipment to a DCL facility, or DCL's nominee, free and clear of all liens, security interests, and other encumbrances.

### 4. Warranty

- A. VENDOR warrants to DCL that all Equipment provided by VENDOR shall be new (unless otherwise noted on the Purchase Order), free from all vices and defects in workmanship, material and design, and in strict conformance to the specifications set forth in the Purchase Order for a period of one (1) year from the date of first use of the Equipment, or eighteen months from the date of delivery, whichever shall occur first (the "**Warranty Period**"). In the event that VENDOR's standard warranty or the Equipment's original manufacturer warranty is longer than the Warranty Period provided

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under this Master Vendor Agreement, then the Warranty Period under this Master Vendor Agreement shall be extended for an equivalent period of time.

- B. With respect to services provided by VENDOR, VENDOR also warrants that all services shall be performed using best practices, sound engineering and/or technical principals, and consistent with industry standards. VENDOR personnel performing services shall be certified and licensed as required under applicable industry standards and state law.
- C. VENDOR agrees that DCL may assign to DCL's parent company, affiliates, subsidiaries, and all of their customers, all right, title and interest of DCL in and to all warranties given by the VENDOR.
- D. In the event that a defect in the Equipment is observed during the Warranty Period, DCL or its assignee will notify VENDOR, who will send a technician to inspect the item covered under this Warranty. Alternatively, at DCL's option, DCL may return the defective portion of the Equipment to VENDOR for repair or replacement at Vendor's sole cost.
  - i. Costs and service hours associated with transportation and utilization of a VENDOR technician for inspection, replacement or repair of the defective portion of the Equipment aboard a vessel or otherwise offsite shall be payable by VENDOR and not reimbursed by DCL.
  - ii. If it shall become necessary to return any portion of the Equipment to VENDOR for repair or replacement under this warranty, VENDOR shall arrange for shipment with a commercial courier at VENDOR's sole cost and expense, and provide DCL with the relevant tracking information. The Equipment shall remain at VENDOR'S sole risk from the time that the Equipment is placed with a carrier for transportation until such time that the Equipment (whether repaired or replaced under this Warranty) is physically re-delivered to DCL.
  - iii. VENDOR shall use commercially reasonable efforts to effect warranty repairs without necessitating that the Equipment be removed or prevented from commercial service.
- E. Repair or replacement of the defective portion of the Equipment, and any damages caused by the defective portion of the Equipment, shall be in addition to any other remedies available to DCL by law.

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- F. The warranty contained in this Section 4 is in addition to all other warranties available to DCL by law.

## 5. Choice of Law and Attorney's Fees

- A. This Master Vendor 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, the initiating party shall prepare a written statement outlining the nature of the dispute. The other 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. The prevailing party shall be entitled to reasonable attorneys' fees, including fees associated with enforcement of any warranty claims, defenses, or claims for indemnity set forth in this Master Vendor Agreement.

## 6. Independent Contractor

VENDOR, whether providing goods, services, or anything else shall at all times be deemed to be an independent contractor of DCL.

## 7. Entire Agreement

This Master Vendor Agreement, along with the terms contained in the Purchase 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 Vendor Agreement and the Purchase Order, the terms of this Master Vendor Agreement shall govern.

## 8. Louisiana Uniform Electronic Transactions Act

This Master Vendor Agreement is subject to the Louisiana Uniform Electronic Transactions Act, La. R.S. 9:2601, *et seq.* DCL and VENDOR have previously agreed to transact the purchase and sale of Equipment by electronic means. DCL and VENDOR acknowledge receipt of this

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Master Vendor Agreement, and hereby incorporate the terms of this Master Vendor Agreement into all quotations, Purchase Orders, invoices, purchase orders and all purchases and sales of Equipment.

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DCL Mooring and Rigging, a division of Dreyfus-Cortney, Inc.  
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