



## GREENBRIER RAIL TERMS AND CONDITIONS OF PURCHASE

**1. Applicability.** These Greenbrier Rail Terms and Conditions of Purchase (these “Terms”), together with the purchase order or similar document transmitted herewith (the “PO,” and together with these Terms, the “Order”) constitute an offer by Greenbrier (“Greenbrier”) to purchase the goods and/or services specified on the face of the PO (the “Goods”) from the person to whom the PO is addressed (“Seller”). Unless otherwise provided in a purchase agreement signed by Greenbrier and Seller providing for the purchase of these Goods, this Order, together with any documents incorporated in this Order by reference, constitutes the sole and entire agreement of Greenbrier and Seller with respect to subject matter of this Order and supersedes all prior or contemporaneous understandings, agreements, negotiations, representations, and warranties, and communications, both written and oral, with respect to the subject matter of this Order, except any confidentiality agreement(s). This Order expressly limits Seller’s acceptance to the terms and conditions of this Order. The terms and conditions of this Order prevail over any terms or conditions contained in any other documentation and expressly exclude any of Seller’s general terms and conditions of sale in Seller’s invoice or in any other document issued by Seller in connection with this Order. The terms and conditions of this Order apply to any repaired or replacement Goods provided by Seller to Greenbrier under or in connection with this Order.

**2. Acceptance.** This Order is not binding on Greenbrier until Seller accepts this Order in writing. Greenbrier may withdraw this Order by giving written notice of that withdrawal to Seller at any time prior to receipt of Seller’s written acceptance of this Order. By acceptance of this order, if your product requires any certifications, approvals or quality designations, including without limitation, AAR certification, you acknowledge that such certifications, approvals or designations have been timely obtained and are accurate and current.

**3. Delivery Date.** Seller shall deliver the Goods in the quantities and on the date(s) specified in this Order or as otherwise agreed in writing by the parties (the “Delivery Date”). Timely delivery of the Goods is of the essence. Seller shall furnish a sufficient labor force and management, plant, and equipment and shall work the hours (including, but not limited to, night shift, overtime, weekend, and holiday work) required to assure timely delivery. If Seller fails to deliver the Goods in full on the Delivery Date, Greenbrier may terminate this Order immediately by providing written notice to Seller, and Seller shall indemnify Greenbrier against any losses, claims, damages, and reasonable costs and expenses attributable to Seller’s failure to deliver the Goods on the Delivery Date.

**4. Changes.** Greenbrier reserves the right at any time to change any of the following: (a) specifications, drawings, and data for the Goods where the Goods are to be specially manufactured by Seller, (b) quantity; (c) methods of shipment or packing; (d) Delivery Date; (e) Delivery Location (defined below); and (f) any other matters affecting this Order. If any change by Greenbrier causes an increase or decrease in the cost of the Goods, or makes the original Delivery Date impracticable, upon notice from Seller, Greenbrier shall make an equitable adjustment to the contract price and/or the Delivery Date, as applicable. Seller's right to an adjustment under this clause shall be deemed waived unless asserted in writing within ten days from Seller's receipt of the change.

**5. Quantity.** If Seller delivers more than the quantity of Goods ordered, Greenbrier may reject all or any excess Goods and return those rejected Goods to Seller at Seller's risk and expense. If Seller delivers more or less than the quantity of Goods ordered and Greenbrier does not reject the Goods and instead accepts the increased or reduced quantity, the Price for the Goods shall be adjusted on a pro-rata basis.

**6. Delivery Location.** Seller shall deliver the Goods to the address specified in the PO (the "Delivery Location") during the recipient's normal business hours or as otherwise instructed by Greenbrier.

**7. Shipping Terms.** Unless expressly provided otherwise in the PO, Seller shall deliver the Goods DDP the Delivery Location (INCOTERMS 2010). Seller shall give written notice of shipment to Greenbrier when the Goods are delivered to a carrier for transportation. Seller shall provide Greenbrier all shipping documents, including, but not limited to, the commercial invoice, packing list, air waybill/bill of lading, and any other documents necessary to release the Goods to Greenbrier immediately after Seller delivers the Goods to the transportation carrier. The number on the PO must appear on all shipping documents, shipping labels, bills of lading, air waybills, invoices, correspondence, and any other documents pertaining to this Order. Greenbrier's weight and/or count shall be accepted as final and conclusive on all shipments not accompanied by a packing list.

**8. Title and Risk of Loss.** Title passes to Greenbrier upon delivery of the Goods to the Delivery Location. If Greenbrier makes progress payments, title to the Goods shall be transferred to Greenbrier as payments are made in the same proportions as the cumulative payments bear to this Order price, in which case Seller shall identify the Goods as the property of Greenbrier as title vests, unless Greenbrier instructs Seller differently. Seller bears all risk of loss or damage to the Goods until delivery of the Goods to the Delivery Location.

**9. Packaging.** All Goods shall be packed for shipment, palletized, loaded, and tied down according to Greenbrier's instructions or, if there are no instructions, in a manner sufficient to ensure that the Goods are delivered in undamaged condition. Seller must provide Greenbrier prior written notice if Greenbrier must return any packaging material. Any return of packaging material shall be at Seller's expense.

**10. Amendment and Modification.** No change to this Order is binding upon Greenbrier unless it is in writing, specifically states that it amends this Order, and is signed by an authorized representative of Greenbrier.

**11. Inspection and Rejection of Nonconforming Goods.** Greenbrier has the right to inspect the Goods on or after the Delivery Date. Greenbrier, at its sole option, may inspect all or a sample of the Goods, and may reject all or any portion of the Goods if it determines the Goods are nonconforming or defective. If Greenbrier rejects any portion of the Goods, Greenbrier has the right, effective upon written notice to Seller, to: (a) rescind this Order in its entirety; (b) accept the Goods at a reasonably reduced price; or (c) reject the Goods and require replacement of the rejected Goods by Seller at no additional charge to Greenbrier. If Greenbrier requires replacement of the Goods, Seller shall, at its expense, promptly replace the nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the nonconforming goods and the delivery of replacement Goods. If Seller fails to timely deliver replacement Goods, Greenbrier may replace them with equivalent goods from another supplier and charge Seller for the additional cost of those replacement goods, and/or terminate this Order for cause under Section 23. Any inspection or other action by Greenbrier under this Section 11 shall not reduce or otherwise affect Seller's warranties or any of Seller's other obligations under this Order, and Greenbrier shall have the right to conduct further inspections after Seller has carried out its remedial actions.

**12. Price.** The price of the Goods (the "Price") is the price stated in the PO. If no price is stated in the PO, the Price shall be the lower of: (a) the last price charged to Greenbrier for identical goods in identical or greater quantities, or (b) price set out in Seller's published price list in force as of the date of this Order, or (c) the lowest price Seller charged any of its other customers for similar goods within the 12 months preceding the date of this Order. Unless otherwise specified in the PO, the Price includes all packaging, transportation costs to the Delivery Location, insurance, customs duties and fees and applicable taxes, including, but not limited to, all sales, use, value added and excise taxes. No increase in the Price is effective, whether due to increased material, labor or transportation costs, or otherwise, without the prior written consent of Greenbrier.

**13. Payment Terms.** (a) Seller shall issue an invoice to Greenbrier on or any time after the completion of delivery of the Goods and only in accordance with this Order. Greenbrier may reject early invoices and in that case Seller may resubmit them. Greenbrier shall pay all undisputed amounts. The parties shall seek to resolve any disputes expeditiously and in good faith. Seller shall continue performing its obligations under this Order and any other contract with Greenbrier notwithstanding a dispute hereunder. Unless otherwise specified in the PO, all amounts payable under this Order shall be paid in United States Dollars. (b) If any Seller invoice provides for a discount for early payment, Buyer (if Buyer elects to take the discount) shall be entitled to the discount if Buyer pays any such invoice dated from the 1st to the 15th days of any month by the 25th of that month, and any such invoice dated from the 16th to the 31st

day of any month by the 10th of the following month. For tooling orders, Buyer shall be entitled to any Seller early payment discount if the tooling invoice is paid within 15 days after Buyer receives and approves the invoiced tooling parts.

**14. Set-off.** Without prejudice to any other right or remedy it may have, and notwithstanding Section 13(a) above, Greenbrier shall have the right to set off at any time any amount owing to Greenbrier by Seller or any of Seller's affiliates against any amount payable by Greenbrier to Seller.

**15. Taxes.** Unless otherwise specified in the PO, Seller shall pay all taxes imposed on the Goods before delivery to the Delivery Location, including, but not limited to, value-added and property taxes imposed on Goods for which title has passed to Greenbrier prior to delivery.

**16. Greenbrier's Property.** (a) All special dies, molds, patterns, jigs, fixtures, discoveries, inventions and/or other works or property that Greenbrier furnishes to Seller or specifically pays Seller to produce for Greenbrier under this Order shall be and remain Greenbrier's property. (b) To the extent any such items that are produced for Greenbrier are protected by copyright, those works are "works made for hire" and all intellectual property rights in those works immediately vest with Greenbrier. To the extent any such works of authorship do not qualify as "works made for hire", Seller sells and assigns to Greenbrier exclusively all present and future right, title and interest in and to those works so that, without further action by Seller, Greenbrier shall immediately and automatically be the sole and exclusive owner of that intellectual property. (c) With respect to any works or property provided to Greenbrier under this Order that is not Greenbrier's property pursuant to 16(a) or (b), notwithstanding any restrictive legends to the contrary, Seller grants to Greenbrier, and Greenbrier shall have, an irrevocable, unlimited, perpetual, worldwide license to copy, modify, use and distribute to any other person such works or property, including, but not limited to, any plans, drawings, and specifications for the Goods that may fall in this category, and Greenbrier may use such plans, drawings and specifications for any purpose. (d) Seller shall (i) use Greenbrier's property exclusively for the benefit of Greenbrier (and shall not use that property for Seller's own use or for the benefit of any of Seller's other customers), (ii) hold that property at Seller's risk and keep it insured by Seller at Seller's expense while in Seller's custody or control in an amount equal to the replacement cost with loss payable to Greenbrier (and Seller shall furnish copies of policies or certificates of that insurance coverage at Greenbrier's request), (iii) return that property to Greenbrier at Greenbrier's written request or when Seller no longer needs that property to provide Goods or services to Greenbrier, and (iv) at Greenbrier's written request, destroy that property.

**17. Resolution of Conflicts or Inconsistencies.** It is Seller's responsibility to comply with this Order and all specifications and other documents referenced in this Order, and to clarify with Greenbrier any inconsistencies or conflicts that Seller perceives in those documents. Should Seller fail to contact Greenbrier to resolve any perceived conflict or inconsistency, Seller shall be solely responsible for errors resulting from such conflict or

inconsistency. Where documents are referenced, the version in effect on the date of this Order shall apply.

**18. Warranties.** Seller warrants to Greenbrier that all Goods shall, for a period of five years: (a) be free from any defects in workmanship, material, and design; (b) conform to (i) applicable specifications, drawings, designs, samples, and other requirements specified by Greenbrier, (ii) all descriptions, promises, and samples by and from Seller, and (iii) to the extent not in conflict with subsections (b)(i) and (ii), industry standards and applicable law; (c) be fit for their intended purpose and operate as intended; (d) be merchantable; (e) be free and clear of all liens, security interests, or other encumbrances; and (f) not infringe or misappropriate any other person's patent, copyright, trade secret or other intellectual property rights. No implied warranties are disclaimed or excluded. All warranties shall survive any delivery, inspection, acceptance, or payment of or for the Goods by Greenbrier and are cumulative and in addition to any other warranties provided by law or equity. The foregoing warranties shall run from the later of the date of Greenbrier accepts the Goods or the date Greenbrier discovers the noncompliance of the Goods with the warranties. If Greenbrier gives Seller notice of noncompliance with this Section 18, Seller shall, at its own cost and expense, promptly replace or repair the defective or nonconforming Goods and pay for all related expenses, including, but not limited to, transportation charges for the return of the defective or nonconforming goods to Seller and the delivery of repaired or replacement Goods to Greenbrier. The warranties in this Section 18 are for the benefit of both Greenbrier and Greenbrier's customers, and Greenbrier's customers shall have the right to enforce these warranties directly against Seller to the same extent as Greenbrier. As to any of the Goods incorporated into equipment Greenbrier is supplying to a Greenbrier customer, the warranty for those Goods shall continue until five years from the date Greenbrier delivers that equipment to Greenbrier's customer.

**19. General Indemnification.** Seller shall defend, indemnify and hold harmless Greenbrier and Greenbrier's parent company, their subsidiaries, affiliates, successors and assigns, and their respective directors, officers, shareholders, and employees and Greenbrier's customers (collectively, "Indemnitees") against any and all loss, injury, death, damage, liability, claim, deficiency, action, judgment, interest, award, penalty, fine, cost, or expense, including, but not limited to, reasonable attorney and professional fees and costs, and the cost of enforcing any right to indemnification hereunder and the cost of pursuing any insurance providers, whether such amounts are paid or payable (collectively, "Losses"), arising out of or occurring in connection with the Goods or Seller's negligence, willful misconduct, violation of law, or breach of this Order. Seller shall not enter into any settlement of any Losses without Greenbrier's or Indemnitee's prior written consent

**20. Intellectual Property Indemnification.** (a) Seller shall, at its expense, defend, indemnify, and hold harmless Greenbrier and the Indemnitees against any and all Losses arising out of or in connection with any claim that Greenbrier's or an Indemnitee's use or possession of the Goods infringes or misappropriates the patent, copyright, trade secret, or other intellectual property right of any other person. Seller

shall not enter into any settlement of any such Losses without Greenbrier's or Indemnitee's prior written consent. (b) If the Goods or any of their components are alleged to be infringing and/or their use is enjoined, in addition to performing its obligations under Section 20(a), Seller shall, at its option and at its sole expense, (i) procure for Greenbrier and the Indemnitees the right to continue using the Goods, (ii) replace the Goods with a substantially equivalent and non-infringing product acceptable to Greenbrier in Greenbrier's sole discretion, or (iii) modify the Goods so that they do not infringe but have substantially equivalent performance as determined by Greenbrier in its sole discretion. Greenbrier shall have the right to return the infringing or allegedly infringing Goods to Seller at Seller's expense, in which case Seller shall promptly refund the purchase price to Greenbrier.

**21. Insurance.** During the term of this Order and for a period of ten years after delivery of the Goods to the Delivery Location, Seller shall, at its own expense, maintain and carry insurance in full force and effect which includes, but is not limited to, commercial general liability (including, but not limited to, product liability) in a sum no less than \$5,000,000 and other types of insurance typically carried by leaders in Seller's industry, each with financially sound and reputable insurers. Upon Greenbrier's request, Seller shall provide Greenbrier with a certificate of insurance from Seller's insurer evidencing the insurance coverage specified in this Order and naming Greenbrier as an additional insured. Seller shall provide Greenbrier with 30 days' advance written notice in the event of a cancellation or material change in Seller's insurance policy. Except where prohibited by law, Seller shall require its insurer to waive all rights of subrogation against Greenbrier's insurers and Greenbrier or the Indemnitees. Nothing in this Section 21 limits or expands Seller's liability to Greenbrier.

**22. Compliance with Law.** Seller is in compliance with and shall comply with all applicable laws, regulations, and ordinances. Seller has and shall maintain in effect all the licenses, permissions, authorizations, consents, and permits that it needs to carry out its obligations under this Order. In addition, Seller shall comply with all export and import laws of all countries involved in the sale of Goods under this Order. Seller assumes all responsibility for shipments of Goods requiring any government import clearance. Greenbrier may terminate this Order if any government authority imposes antidumping duties, countervailing duties, or any retaliatory duties on the Goods. Further, Seller understands that Greenbrier is subject to compliance with the Foreign Corrupt Practices Act, the General Law on the National Anti-Corruption System of Mexico, and the anti-bribery laws of any country in which it does business, and Seller shall not take, or fail to take, any action if the result would be to cause Greenbrier to be in violation of those laws. Specifically, Seller will observe and is obligated that neither Seller, either directly or indirectly, nor Seller's employees, legal representatives or agents will offer, give or agree to give any money, payment, gift, consideration, bribe, advantage of any kind or anything of value to any person who works with or for any government entity (including government owned companies employees), or to any company, in order to obtain or retain any business or any another inappropriate advantage that constitutes an illegal or corrupt practice in accordance with the laws

applicable in the United Mexican States and the United States of America. This prohibition includes that the Seller will not offer or give money or anything of value, directly or indirectly, to a third party knowing or having any reason to believe that the payment will be offered or given to a third person or public official in order to influence a public official or another person to grant a business to Greenbrier or obtain a benefit from it.

**23. Termination.** (a) Greenbrier may terminate this Order, in whole or in part, at any time with or without cause for undelivered Goods on five days' prior written notice to Seller. Seller shall promptly comply with all directions contained in that notice and shall (i) take all actions necessary to terminate work, minimizing costs and liabilities for terminated work; (ii) protect, preserve, and deliver in accordance with Greenbrier's instructions any property related to this Order in Seller's possession that is owned by or to be paid for by Greenbrier under this Order; and (iii) continue the performance of any part of this Order or any other order not terminated by Greenbrier. (b) In addition to Greenbrier's other remedies, Greenbrier may terminate this Order for cause with immediate effect upon written notice to Seller, either before or after the acceptance of the Goods, if: (i) Seller has not performed or complied with or otherwise breached this Order, in whole or in part; (ii) Seller becomes insolvent, files a petition for bankruptcy, makes an assumption for the benefit of creditors, or commences or has commenced against it proceedings relating to bankruptcy, receivership, or reorganization; (iii) Greenbrier, in its sole discretion, deems itself insecure in Seller's continued performance of its obligations following ten days' written notice of such insecurity and request for adequate assurances by Greenbrier; and/or (iv) Seller has breached Section 28 (Assignment). If Greenbrier terminates this Order for cause, Seller's sole and exclusive remedy is payment for the Goods received and accepted by Greenbrier prior to the termination (subject to Section 14 (Set-off)). (c) If, upon termination for Greenbrier's convenience, Seller has in stock or on firm order any completed Goods or any unfinished items or raw, semi-processed, or completed materials for use in fulfilling this Order, then: (i) for completed Goods, Greenbrier shall either take delivery of all or part of the completed Goods and pay Seller the Price, or (without taking delivery) pay Seller the difference, if any, between the Price and the market price (if lower) at the time of termination, less applicable shipping charges, (ii) for unfinished items or raw or semi-processed materials that are properly allocable to this Order, Greenbrier shall either require Seller to deliver all or part of those items and materials to Greenbrier for the portion of the Price representing the stage of completion, or (without taking delivery) pay Seller a portion of the Price representing the stage of completion, reduced by the higher of the market or scrap value of those items or materials, less applicable shipping charges, and (iii) for items that Seller has on firm order, Greenbrier may either accept an assignment of Seller's right under that order or pay the cost, if any, of settling or discharging Seller's obligation under that order. Payments to Seller under this Section 23(c) shall be the sole remedy available to Seller in the event of a termination for convenience by Greenbrier.

**24. Limitation of Liability.** Nothing in this Order shall exclude or limit (a) Seller's liability under Sections 18, 19, 20 and/or 26 of these Terms, or (b) Seller's liability for fraud, personal injury, or death caused by its negligence or willful misconduct. In no event shall Greenbrier be liable to Seller or to any other person for any incidental, indirect, exemplary, punitive, or consequential damages of any kind or any lost profits, loss of use or loss of opportunity. Greenbrier's liability on any claim of any kind arising out of or relating to the Goods or this Order shall in no event exceed the Price.

**25. Waiver.** No waiver by either Seller or Greenbrier of any of the provisions of this Order shall be effective unless explicitly set forth in writing and signed by the party waiving the provision. Except as otherwise described in the PO, no failure to exercise, or delay in exercising, any rights, remedy, power, or privilege arising from this Order shall operate or be construed as a waiver of those rights, remedies, powers or privileges, nor shall a single or partial exercise preclude any other exercise of, or preclude the exercise of any other, rights, remedies, powers, or privileges.

**26. Confidential Information.** Seller shall not (a) disclose any of Greenbrier's Confidential Information (defined below) to anyone other than to Seller's employees who have a need to know that information in order to fulfill Seller's obligations under this Order; or (b) use any of Greenbrier's Confidential Information for any purpose except to fulfill Seller's obligations under this Order. The term "Confidential Information" means and includes all non-public information of or about Greenbrier, its customers, employees and suppliers, including, but not limited to, specifications, samples, patterns, designs, plans, drawings, documents, data, business operations, customer lists, pricing, discounts, or rebates, whether disclosed or accessed in writing, electronically, orally, by observation, or in any other manner, form or media, and whether or not marked, designated, or otherwise identified as "confidential". Without in anyway expanding the restrictions in subsections (a) and (b) above, Seller shall be responsible for any breach of this Section 26 or any other provision of this Order by any of Seller's employees or other agents. Seller shall (x) promptly return all documents and other materials received from Greenbrier upon the earlier of (i) Greenbrier's written request or (ii) when Seller has fully performed its obligations under this Order, (y) upon Greenbrier's written request destroy those documents and materials, and (z) cause an officer of Seller to certify in writing that Seller has complied with those obligations. Greenbrier shall be entitled to injunctive relief for any violation of this Section 26.

**27. Excusable Delay.** Neither party shall be liable to the other for any delay or failure in performing its obligations under this Order to the extent the delay or failure is caused by an event or circumstance beyond the reasonable control of that party, without such party's fault or negligence, and which by its nature could not have been foreseen by such party or, if it could have been foreseen, was unavoidable ("Delay Event"). The party whose performance is affected by the Delay Event shall provide prompt notice of that Delay Event to the other party. Delay Events include, but are not limited to, acts of God or the public enemy, government restrictions, floods, fire, earthquakes, explosion, epidemic, war, invasion, hostilities, terrorist acts, riots, strike, embargoes, or industrial disturbances. Seller's economic hardship, changes in market conditions, and shortages



of materials and/or labor are not Delay Events. Seller shall use all diligent efforts to end the failure or delay of its performance, ensure that the effects of any Delay Event are minimized and resume performance under this Order. If a Delay Event prevents Seller from carrying out its obligations under this Order for a continuous period of more than five business days, Greenbrier may terminate this Order for cause immediately by giving written notice to Seller. Nothing in this paragraph shall relieve Seller from liability for failure to have security, archival, disaster recovery and back-up systems and plans that are standard for leaders in its industry.

**28. Assignment.** Seller shall not assign, transfer, delegate, or subcontract any of its rights or obligations under this Order without the prior written consent of Greenbrier. A transfer of a majority or more of the voting securities of Seller without Greenbrier's written consent shall be treated as a prohibited assignment. Any purported assignment or delegation in violation of this Section 28 shall be null and void. No assignment or delegation shall relieve Seller of any of its obligations under this Order. Greenbrier may at any time assign, transfer, or subcontract any or all of its rights or obligations under this Order without Seller's prior written consent.

**29. Relationship of the Parties.** The relationship between the parties is that of independent contractors. Nothing in this Order shall be construed as creating any agency, partnership, joint venture, or other form of joint enterprise, employment, or fiduciary relationship between the parties, and neither party shall have authority to contract for or bind the other party in any manner whatsoever. Nothing in this Order requires that the parties have an exclusive relationship or obligates Greenbrier to make any minimum purchase or to purchase any other goods or services from Seller now or in the future.

**30. Governing Law.** All matters arising out of or relating to this Order shall be governed by and construed in accordance with the internal laws of the State of Oregon (without giving effect to any conflict of laws provision or rule or to the United Nations Convention on Contracts for the International Sale of Goods) that would cause the application of the laws of any jurisdiction other than those of the State of Oregon to this Order.

**31. Submission to Jurisdiction.** Seller (a) irrevocably consents to the jurisdiction of, and venue in, any state or federal court located in the State of Oregon, (b) shall not assert that Oregon is an inconvenient forum, and (c) shall not initiate any suit, action or other legal proceeding (including, but not limited to, arbitration) against Greenbrier in any other place.

**32. Cumulative Remedies.** The rights and remedies under this Order are cumulative and are in addition to and not in substitution for any other rights and remedies available at law or in equity or otherwise. **33. Notices.** All notices, request, consents, claims, demands, waivers, and other communications under or in connection with this Order must be in writing and addressed to the other party at the address for that party in the PO or to such other address as that other party may designate. Notices may be given in the manner the parties usually use to communicate with each other and shall be deemed effective (a) immediately upon personal delivery, (b) in the case of electronic

mail, upon receipt, (c) one day after deposit with a nationally recognized overnight courier (with all fees pre-paid), or (d) three days after deposit with the U.S. Postal Service if sent by certified or registered mail, return receipt requested and postage prepaid).

**34. Severability.** If any provision of this Order is invalid, illegal, or unenforceable in any jurisdiction, then this Order shall remain in effect and that provision shall be revised to the least and narrowest extent possible and to give effect as closely as possible to the parties' original intentions.

**35. Survival.** Provisions of this Order that by their nature should apply beyond the expiration or earlier termination of this Order shall remain in force after any termination or expiration of this Order, including, but not limited to, the following provisions: Set-off, Warranties, General Indemnification, Intellectual Property Indemnification, Insurance, Compliance with Laws, Confidentiality, Governing Law, Submission to Jurisdiction, and Survival.

**36. Special Provisions.** (a) Plan Approval. Prior to commencing work under this Order, Seller shall provide a letter to Greenbrier identifying the Goods to be sold by Seller under this Order and enclosing Seller's manufacturer's drawings of the Goods, addressed to: Attention: Sr. Vice President Railcar Engineering, Greenbrier, 4350 N.W. Front Avenue, Portland, Oregon 97210. Subsequent letters regarding subsequent purchases of the same item can refer to previously submitted drawings ("master drawings") in lieu of attaching new drawings, provided there have been no changes and Seller certifies in its subsequent letter that the prior drawings remain accurate. (b) Hazardous Materials. If this Order is for paints or other potentially hazardous materials, Seller shall forward immediately to the attention of the Greenbrier representative in charge of this Order, a completed Material Safety Data Sheet (MSDS) OSHA-20 or approved equal, referencing this Order number and showing the maximum lead content and all necessary information for the safe use of the Goods, advising of their toxicity, flammability, health hazard, and including specifications giving the formulation of the material. (c) Mill Test Reports. Seller shall furnish to Greenbrier three copies of mill test certifications covering all forgings, castings, rivets, plate, sheet, and structural steel. Seller shall send those certifications to: Attention: Sr. Vice President Railcar Engineering, Greenbrier, 4350 N.W. Front Avenue, Portland, Oregon 97210. (d) Return of Patterns. Seller shall return all patterns to Greenbrier upon completion of this Order. Notwithstanding anything to the contrary in these Terms, (a) Seller shall not be treated as having fully performed its obligations under this Order until the patterns have been returned to Greenbrier; and (b) the time for paying for the Goods shall not begin until Greenbrier has received those patterns. (e) Third-Party Repairs and Spare Parts. Seller agrees that Greenbrier, and Greenbrier's customers, shall have the right to repair the Goods or have a third party repair the Goods. If those repairs are covered under Seller's warranty, Seller shall pay Greenbrier's or its customer's reasonable cost of repair, including, but not limited to, the actual cost of any replacement parts required, whether purchased from Seller, purchased on the open market, or made by or for Greenbrier or its customer. Seller shall at all times sell to Greenbrier and its customers spare or repair

parts for the Goods as they wish to purchase, whether for current repairs or as a commercially reasonable quantity of spare parts for future use, at no more than Seller's typical and actual sale price for like parts in like quantities, or if no such price exists, at Seller's cost plus 10%. (f) Quality Assurance. Seller shall permit Greenbrier, its customer, or its agent access to all areas of Seller's facilities used for the manufacture, storage or shipment of the Goods for the purpose of observing Seller's performance of this Order and identifying any non-conformance thereto. When requested by Greenbrier, Seller's measuring and test equipment shall be made available for use by Greenbrier or shall be operated in the presence of Greenbrier to determine conformance of the Goods to this Order. Seller's purchase orders to Seller's subcontractors and suppliers with respect to this Order shall include a requirement that Greenbrier or its agent shall have access to the subcontractor's/supplier's facilities to monitor and test activities related to this Order. Seller shall ensure that its subcontractors and suppliers honor this requirement.

**37. Supplier Code of Conduct.** Supplier agrees that it will fully comply with The Greenbrier Companies' Supplier Code of Conduct in all respects. The Supplier Code of Conduct can be found on Greenbrier's public website, [www.gbrx.com](http://www.gbrx.com).

**38. Federal Contractor/EEOP and AAP.** Greenbrier is a federal contractor and has an Equal Employment Opportunity Policy and an Affirmative Action Program. All Greenbrier contractors and subcontractors, including suppliers and vendors, shall abide by the requirements of 41 CFR §§ 60-1.4(a), 60-300.5(a) and 60-741.5(a). These regulations prohibit discrimination against qualified individuals based on their status as protected veterans or individuals with disabilities, and prohibit discrimination against all individuals based on their race, color, religion, sex, sexual orientation, gender identity or national origin. Moreover, these regulations require that covered prime contractors and subcontractors take affirmative action to employ and advance in employment individuals without regard to race, color, religion, sex, sexual orientation, gender identity, national origin, protected veteran status or disability.

**39. Conflict Minerals.** Seller covenants, warrants and represents that, after reasonable inquiry, that no tantalum, tin, tungsten and/or gold ("Conflict Minerals"), contained in any Goods subject to this order, originated from Angola, Burundi, the Central African Republic, the Democratic Republic of the Congo, Rwanda, South Sudan, Uganda, United Republic of Tanzania, The Republic of the Congo or Zambia, unless the Conflict Minerals were processed by a facility listed as compliant pursuant to the EICC-GeSI Conflict Free Smelter Program. Seller agrees to abide by the terms and conditions in Greenbrier's Conflict Minerals Policy and make every effort to responsibly source all of its materials to ensure they are conflict free, and to work towards defining, implementing and communicating to its sub-suppliers, its own policy outlining its commitment to responsible sourcing, legal compliance and measures for implementation. Seller agrees to cooperate and work with its sub-suppliers to ensure traceability of Conflict Minerals at least to smelter or refiner level, to maintain and record all Conflict Minerals traceability documentation for five years, and to provide such documentation to Greenbrier upon request.