



ATLAS

AGREEMENT TO DEFEND AND INDEMNIFY VEXAS CORP d/b/a ATLAS CARTS BY DEALER/DISTRIBUTOR AND PURCHASER

Vexas Corp d/b/a Atlas Carts (“Vexas”) has manufactured this cart with a maximum speed of 20 miles per hour. Vexas does not authorize any Dealer/Distributor or Purchaser to modify or otherwise alter the cart from the condition it is shipped from Vexas’ manufacturing facility. “Dealer/Distributor” refers to the entity that takes original delivery directly from Vexas. “Purchaser” refers to the person or entity that purchases the cart from the Dealer/Distributor. As a condition precedent to selling or otherwise operating this cart Dealer/Distributor must have this agreement executed by Dealer/Distributor and Purchaser.

Should the Dealer/Distributor or Purchaser in any way modify or otherwise alter the cart from its original condition to increase speed or in any other manner, whether related to speed or not, Dealer/Distributor and Purchaser agree to defend and indemnify Vexas, its subsidiaries, parent companies, related companies and affiliates, and all of their officers, directors, agents, employees, attorneys, insurers from and against any damages, claims, demands, liabilities, and expenses (including, but not limited to reasonable attorney’s fees) that arise out of or result from the death or bodily injury to, or damage to tangible property of, any Purchaser, operator and/or any third party arising from the use, operation or involvement of the cart. Due to the difficulty in determining the exact effects of any alteration or modification of the cart, this agreement to defend and indemnify shall also include, in addition to the above, but not by way of limitation, claims, allegations, suits, etc. resulting from the design, labelling, warnings, manufacture, use of the product, involvement of the product and all acts or omissions of Vexas.

Dealer/distributor and Purchaser agree to fully defend and indemnify Vexas in accordance with the above and related to any other causes of action or claims that were otherwise not contemplated in the above paragraphs, but that relate to the purchase, operation, use, involvement or that otherwise relate the cart in any manner. The obligation of Dealer/Distributor and Purchaser to fully defend, indemnify and hold Vexas harmless also includes providing counsel satisfactory to Vexas, even if there are allegations of Vexas’ independent negligence or other acts or omissions solely attributed to Vexas, and regardless of whether Dealer/Distributor and/or Purchaser’s insurance carrier accepts the duty to defend or provide coverage to any tendered claim. Vexas will be permitted to control all aspects of the litigation and/or claim, including whether to make any offers to compromise any claim, suit, etc. Dealer/Distributor and Purchaser will fully cooperate, to the extent necessary and without violating any law, in the defense of any said claims.

Any alteration or modification of the cart will be deemed a misuse under any applicable warranty and shall void the warranty in its entirety with the exception of the disclaimers which include but are not limited to the following, said disclaimers remaining in full force and effect:

VEXAS CORP HEREBY EXPRESSLY DISCLAIMS ANY AND ALL WARRANTIES, WHETHER EXPRESSED OR IMPLIED, WRITTEN OR ORAL, INCLUDING BUT NOT LIMITED TO THE WARRANTIES OF MERCHANTABILITY AND OF FITNESS FOR A PARTICULAR PURPOSE, IN REGARD TO ANY PRODUCTS WHICH WERE MANUFACUTED, USED OR SOLD BY VEXAS.



The duty to defend, indemnify and hold Vexas harmless applies in full and regardless of whether there are claims or allegations against Dealer/Distributor and/or Purchaser that are independent of any claims or allegations against Vexas. The duty to defend, indemnify and hold Vexas harmless also applies in full and regardless of whether there are claims or allegations against Vexas that are independent of any claims or allegations against Dealer/Distributor and/or Purchaser. Dealer/Distributor and Purchaser waive all defenses they may have regarding any defense or indemnification afforded to Vexas under this agreement.

The obligations of Dealer/Distributor and Purchaser in this agreement do not operate as a limitation of damages against Dealer/Distributor or Purchaser and does not preclude any claims that Vexas may have against Dealer/Distributor or Purchaser related to any claims and/or causes of action.

Dealer/Distributor and Purchaser agree that any alteration or modification of the cart in any manner will preclude any negligence, contractual, common law and/or product liability suit, claims, etc. that they may have jointly or severally, against Vexas that in any way relates to the cart or its use, operation or anything otherwise related or arising from the cart. **Dealer/Distributor and Purchaser agree that if they alter or modify the cart in any manner (except for cosmetic and aesthetic reasons) that they waive all claims and causes of action against Vexas.** This includes, but is not limited to claims and causes of action that have arisen, are current, or may arise in the future that in any way relate to the cart, its use, its operation, its involvement. Dealer/Distributor and Purchaser acknowledge that Vexas has expressly stated that it does not consent to the alteration or modification of the cart in any manner. The product has been designed, tested or intended by Vexas to be used in the condition it was when it left control of Vexas and any modification or alteration will be deemed contrary to this express and adequate instruction/warning, and any modification or alteration of the product will be deemed a failure of Dealer/Distributor and Purchaser to exercise reasonable care under the circumstances.

Dealer/Distributor and Purchaser agree that should Vexas incur any legal fees and costs related to Dealer/Distributor or Purchasers that Vexas shall be entitled to recover all attorney fees and costs that it may incur related to its own defense- or actions taken to enforce its rights under this agreement.

This Agreement shall apply to all subsequent purchasers of this cart and as a condition precedent to the Sale of this cart, any seller must have any subsequent purchaser execute this agreement, unmodified (except to add an additional signature line), at which time they shall then have the same obligations of Purchaser; although, any sale of the cart from or on behalf of Purchaser shall not relieve Purchaser of its obligations hereunder and Purchaser and any subsequent Purchaser shall continue to remain bound by this agreement for the life of the cart. Dealer/Distributor and Purchaser waive any defense that they did not re-execute this agreement when executed by any subsequent purchaser.

This agreement may only be modified in writing and if executed by Vexas. To the extent any terms or provisions of this agreement are deemed unenforceable the remaining terms of this agreement shall remain in full force and effect with the parties intention that the agreement be construed in a manner to carry out the spirit and intention of the same and to afford Vexas the maximum protections possible.

The obligations of Dealer/Distributor and Purchaser under this agreement are joint and several.



The parties placing their signature hereto have read the above indemnification and defense agreement, understand its contents, acknowledge they are authorized to execute the same on behalf of the party they are signing for, have had the opportunity to have the agreement reviewed by their own counsel, and expressly agree to the same.

(REMAINDER OF THIS PAGE HAS BEEN LEFT INTENTIONALLY BLANK, SIGNATURE PAGE(S) ARE ON THE FOLLOWING PAGE(S))



Serial # of vehicle:

Agreed and consented to without reservation by:

DEALER/DISTRIBUTOR

Signature: _____
Print Name: _____
Title: _____
Address: _____
Date: _____

PURCHASER

Signature: _____
Print Name: _____
Title, if applicable: _____
Address: _____
Date: _____

SUBSEQUENT PURCHASER

Signature: _____
Print Name: _____
Title, if applicable: _____
Address: _____
Date: _____

SUBSEQUENT PURCHASER

Signature: _____
Print Name: _____
Title, if applicable: _____
Address: _____
Date: _____

SUBSEQUENT PURCHASER

Signature: _____
Print Name: _____
Title, if applicable: _____
Address: _____
Date: _____