

TOLL FORMING DISCLAIMER

1. In addition to any and all rights of reimbursement, indemnification, contribution, subrogation or any other rights under law or equity, the Customer, for itself, its shareholders, partners, members, beneficial owners, officers, directors, employees and agents and their respective heirs, personal representatives, successor and assigns (each, an “Indemnitor”) hereby agrees to defend, indemnify and hold harmless ATAS, its shareholders, officers, directors, employees and agents and their respective heirs, personal representatives, successor and assigns (each, an “Indemnitee”) from and against any and all claims, suits, liabilities (including without limitation strict liabilities), actions, proceedings, obligations, debts, damages, losses, costs (including costs of the enforcement of this Agreement), expenses, diminution in value, fines, penalties, charges, fees, expenses, judgments, awards, amounts paid in settlement, encumbrances, liens, consequential damages, lost profits or punitive damages, costs and expenses of investigation and defense of any claim, whether or not such claim is ultimately defeated, all of whatever kind or nature, contingent or otherwise, including but not limited to attorneys and expert fees which an Indemnitee may incur or which may be imposed upon, threatened against, incurred by, imposed upon, incurred by, awarded or asserted against, an Indemnitee by any person or entity whatsoever, including direct, first party claims asserted by Customer and claims by Customer for reimbursement, indemnification, contribution, subrogation or the like in respect of claims brought against Customer by a third party (collectively, the “Liabilities”) by reason of or in connection with: (i) peeling, checking, chipping, cracking, color change (freedom from fade or change), chalk or oxidation of the paint/coating applied to Customer’s metal stock before its delivery to ATAS for fabrication into metal product; or (ii) defects or deficiencies in the base metal that Customer has caused to be painted/coated before its delivery to ATAS for fabrication; or (iii) defects or deficiencies in the Customer-provided metal stock that adversely affect formability of the metal (conversion of the Customer-provided flat sheet metal into a metal product of desired shape without defects like fracture, camber, oil canning, waviness or any other defects or excessive localized thinning); or (iv) delays in transportation or damage that occurs while the metal product are in the custody or possession of a carrier; or (v) delays in production times or schedules (Customer acknowledges that all production or delivery dates provided by ATAS are estimates only and that ATAS will not be liable for failure to produce by or deliver on such dates); or (vi) claims of breach of an express or implied warranty of merchantability or fitness for a particular use (TO THE EXTENT PERMITTED BY LAW, THE EXPRESS WARRANTY, IF ANY, GIVEN BY ATAS FOR THE BENEFIT OF THE ULTIMATE USER, AND THE REMEDIES UNDER SUCH EXPRESS WARRANTY, ARE EXCLUSIVE AND IN LIEU OF ALL OTHER WARRANTIES, REMEDIES AND CONDITIONS, WHETHER ORAL OR WRITTEN, STATUTORY, EXPRESS OR IMPLIED. TO THE MAXIMUM EXTENT PERMITTED BY APPLICABLE LAW, ATAS SPECIFICALLY DISCLAIMS ALL OTHER EXPRESS WARRANTIES AND ALL STATUTORY OR IMPLIED WARRANTIES, INCLUDING, WITHOUT LIMITATION, THE WARRANTIES OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE).

2. If any proceeding shall be brought or threatened against an Indemnitee by reason of or in connection with the Liabilities described above, as a condition of indemnity hereunder each Indemnitee shall promptly notify the Customer in writing and the Customer shall assume the defense thereof, including the employment of counsel satisfactory to such Indemnitee, and the payment of all reasonable costs of litigation. Notwithstanding the preceding sentence, each Indemnitee shall have the right to employ its own counsel and to determine its own defense of such action in any such case, but the fees and expenses of such counsel shall be at the expense of such Indemnitee unless (i) the employment of such counsel shall have been authorized in writing by the Customer, or (ii) the Customer, after due notice of the action, shall not have employed counsel satisfactory to such Indemnitee to have charge of such defense, in either of which events the reasonable fees and expenses of counsel for such Indemnitee shall be borne by the Customer. The obligations of the Customer under this Agreement shall survive the termination of business between ATAS and the Customer.

Customer Signature

Date

Company Name

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A leading manufacturer with a reputation built on 60 years of quality craftsmanship and knowledgeable staff.

Headquarters: 6612 Snowdrift Road, Allentown, PA 18106 | Mesa, AZ | University Park, IL

