**MyLiNXTM System**

**ONLINE SERVICES AGREEMENT**

This Online Services Agreement (“Agreement”) is made as of Click on Date (“Effective Date”) between Invacare Corporation, an Ohio corporation having its principal place of business at One Invacare Way, Elyria, OH 44035 (“Company”) and Enter Legal Name of Customer, a Enter Type of Entity having its principal place of business at Address of Customer (“Customer”).

Company will provide Customer with access to Company’s MyLiNX System online service center (“MyLiNX”) solely for Customer’s use as described in Exhibit A and Exhibit B. In the event of a conflict between the terms and conditions set forth in Exhibit A versus any other exhibit, schedule, or addendum attached hereto, the terms and conditions set forth in Exhibit A will control.

The parties agree that the following Exhibits are hereby incorporated into and form a part of this Agreement.

* + - Exhibit A – Terms and Conditions
		- Exhibit B – MyLiNX Online Services

The parties by their duly authorized representatives have read, understand, and agree to the terms and conditions of this Agreement as of the Effective Date.

**Company Customer**

Signature: Signature:

Name: Name:

Title: Title:

Date: Date:

**EXHIBIT A**

**TERMS AND CONDITIONS**

1. Online Services.
2. Subject to the terms and conditions of this Agreement, Company will provide Customer access to MyLiNX as described herein and in Exhibit B (“Online Services”). Company grants to Customer a nonexclusive, nontransferable, limited and revocable right to use the Online Services and data made available therein, for the sole purpose of assisting Customer in its provision of maintenance and repair services on products equipped with a Company LiNX controller (“Products”), provided that the end user or owner of any such Product has selected Customer as his or her service provider through Company’s MyLiNX end user application (“MyLiNX App”). Customer will not have access to and may not use any Product data unless the Product end user or owner has made such selection. Customer acknowledges that the availability of Product data in MyLiNX is dependent on the end user or owner of the Product voluntarily connecting its Product to MyLiNX through the MyLiNX App and that Company has no control over any end users’ or owners’ use of the MyLiNX App. Customer may allow its employees and agents to use the Online Services only for such purpose. Customer is and will remain responsible for its employee’s and agent’s compliance with this Agreement.
3. Company may, at any time during the Term, update the Online Services to reflect changes in, among other things, laws, regulations, rules, technology, industry practices, patterns of system use, and availability of third party content. Any such updates to the Online Services will not materially reduce the level of performance, functionality or availability of the Online Services during the Term.
4. Company may, at any time during the Term, update the terms and conditions of this Agreement by providing written notice to Customer, which may be delivered to Customer by email or by posting the update on MyLiNX in a conspicuous manner. Such updates may, for example, include the addition of, or changes to, applicable fees. Customer’s continued use of the Online Services after such update will be deemed acceptance of such update.

1. Customer may only use the Online Services as described in this Agreement. Customer may not, and may not cause or permit others to: (i) modify, make derivative works of, disassemble, decompile, reverse engineer, reproduce, republish or copy any part of the Online Services (including data structures or similar materials produced by software programs); (ii) access or use the Online Services to build or support, directly or indirectly, products or services competitive to MyLiNX, Company, its parent, or its subsidiaries; (iii) license, sell, lease, transfer, assign, distribute, disclose, donate, outsource, permit timesharing or service bureau use of, commercially exploit, or make the Online Services available to any third party except as expressly permitted by this Agreement; (iv) perform or disclose any benchmarking, availability or performance testing of the Online Services; (v) perform or disclose network discovery, port and service identification, vulnerability scanning, password cracking, remote access or penetration tests of the Online Services; or (vi) use the Online Services: in a way prohibited by law, regulation, governmental order or decree; to violate the rights of others; to try to gain unauthorized access to or disrupt any services, device, data, account or network; in a way that could harm the Online Services or impair anyone else’s use of the Online Services; to spam or distribute malware; or in any application or situation where failure of the Online Services could lead to the death or serious bodily injury of any person, or to severe physical or environmental damage (collectively the “Prohibited Use Policy”). Company may monitor Customer’s use of MyLiNX.
2. Exclusions. The Online Services do not include: (a) any guidance, tools or assistance from Company relating to Product maintenance or service, or interpretation of the Company Content (as defined below), or (b) any Internet access, service, hardware or device required to connect to and use the Online Services.
3. Customer Obligations. In addition to any other Customer obligations described in this Agreement, Customer is solely responsible for:
4. performing all Product maintenance and service activities;
5. determining the appropriate use of the Company Content in such maintenance and service activities;
6. interacting with Product end users and owners as to such service and maintenance activities;
7. authorizing its employees and agents to use the Online Services and ensuring such use complies with the terms of this Agreement, including but not limited to securing and protecting passwords and log-in information;
8. ensuring its employees and agents comply with, and will not work around, any technical limitations of the Online Services;
9. ensuring its employees and agents do not download or otherwise remove copies of software or source code from MyLiNX or the Online Services, except as explicitly authorized by this Agreement;
10. providing Company with the name and contact information of the Customer representative that will act as the primary point of contact for Customer under this Agreement;
11. assisting Product end users and owners in downloading the MyLiNX App and selecting, at the end users’ or owners’ sole option, a service provider; and
12. responding to Company’s reasonable requests for feedback relating to MyLiNX or the Online Services.
13. Intellectual Property Rights and Restrictions. As between the parties, Customer retains all ownership and intellectual property rights in and to the content that Customer enters in MyLiNX (“Customer Content”). Customer hereby grants Company the right to host, use, process, display and transmit Customer Content for use with the Online Services and as otherwise provided in this Agreement. Company and its licensors retain all ownership and intellectual property rights in and to: MyLiNX, the Online Services, the Service Analyses (as defined below), and all Product data and any other content made available to Customer by Company through MyLiNX or the Online Services; any derivative works thereof; and anything developed or delivered by or on behalf of Company under this Agreement (“Company Content”). Company may solicit, or Customer may decide to provide, feedback, comments and suggestions about improvements to MyLiNX or the Online Services (“Feedback”). Such Feedback will be the sole and exclusive property of Company and Customer hereby irrevocably assigns to Company all right, title, and interest in and to all Feedback. Company will be free to use, disclose, reproduce, license or otherwise distribute, and exploit such Feedback as it sees fit, entirely without obligation or restriction of any kind.
14. Privacy and Security.
15. Customer Content will be used for the purpose of providing Customer the Online Services (and purposes compatible with providing the Online Services) and as described in this Agreement. Company will not disclose Customer Content outside of Company, its parent, its subsidiaries and affiliates, and its third party service providers, except as: (i) Customer directs, (ii) described in this Agreement, or (iii) required by law.

1. Customer acknowledges that its entry of any personally identifiable information (“PII”) in MyLiNX is voluntary and not required for Customer to utilize the Online Services. Customer will not enter any personal health information, protected health information (as defined in 45 CFR §160.103), payment card information or similarly sensitive personal information that may impose specific data security obligations on the processing of such data greater than those specified in this Agreement.
2. Customer has sole responsibility for the accuracy, quality, integrity, legality, reliability, and appropriateness of Customer Content, and for obtaining all rights related to Customer Content required by Company to perform the Online Services. Customer must comply with all laws and regulations applicable to its use of the Online Services and Customer Content, including laws related to privacy, biometric data, data protection and confidentiality of communications. Customer is responsible for implementing and maintaining privacy protections and security measures for the Customer Content.
3. Company may (i) compile statistical and other information related to the performance, operation and use of the Online Services and Products, and (ii) use Customer Content from the Online Services in aggregated form for security and operations management, to create statistical analyses, and for research, development or other commercial purposes (clauses i and ii are collectively referred to as “Service Analyses”). Company may make Service Analyses publicly available; however, Service Analyses will not incorporate Customer Content or Confidential Information in a form that could serve to identify Customer or any individual. Company may, at its option, contact Customer via email or telephone to share reports based on Customer Content and/or Company Content to help Customer understand the potential reporting capabilities of MyLiNX.
4. During the Term, Customer may use the Online Services to access and extract Customer Content and Company Content stored in MyLiNX, where Company Content will only be made available to Customer on a rolling 90-day period. After expiration or termination of this Agreement, Company will retain Customer Content stored in MyLiNX in a limited function account for 90 days so that Customer may extract the Customer Content. After such 90-day retention period ends, Company will disable Customer’s limited function account and delete the Customer Content. Company has no liability for the deletion of Customer Content as described in this Section.
5. Company is committed to helping protect the security of Customer Content. The third party platform used by Company to provide the Online Services has implemented and will maintain and follow appropriate technical and organizational measures intended to protect Customer Content against accidental, unauthorized or unlawful access, disclosure, alteration, loss, or destruction. Customer must notify Company promptly about any possible misuse of its accounts or authentication credentials or any security incident related to the Online Services.
6. Customer is responsible for any security vulnerabilities, and the consequences of such vulnerabilities arising from Customer Content or Customer’s use of the Online Services, including but not limited to any viruses, Trojan horses, worms or other harmful programming routines contained in Customer Content, or from Customer’s use of the Online Services in a manner that is inconsistent with the terms of this Agreement. Customer may disclose or transfer, or instruct Company to disclose or transfer, Customer Content to a third party, and upon such disclosure or transfer Company is no longer responsible for the security or confidentiality of such content and applications outside of MyLiNX.
7. Third-party content, services and web sites. The Online Services may enable Customer to link to, transmit Customer Content to, or otherwise access third parties’ websites, platforms, content, products, services, and information. Company does not control and is not responsible for such third parties’ websites, platforms, content, products, services, and information. Any third-party content Company makes accessible to Customer via the Online Services is provided on an “as-is” and “as available” basis without any warranty of any kind. Customer acknowledges and agrees that Company is not responsible for, and has no obligation to control, monitor, or correct any such third-party content. Company disclaims all liabilities arising from or related to any third party content.

1. Term. The initial term of this Agreement commences on the Effective Date and continues until December 31, 2018, unless earlier terminated as described below (the “Initial Term”). Unless terminated in writing within thirty (30) days of expiration, this Agreement will automatically renew, on an annual basis, for additional periods of one (1) year (the Initial Term and such renewal periods are referred to as the “Term”).
2. Termination.
3. Either party may terminate this Agreement without cause upon thirty (30) days written notice to the other party.
4. This Agreement will immediately terminate without notice if Customer (i) violates or attempts to violate the Prohibited Use Policy, (ii) accesses or uses the Online Services to commit an illegal act; or (iii) fails to pay Company when due, or (iv) breaches or threatens to breach any term this Agreement.
5. Upon expiration or termination of this Agreement, Company may, in addition to any other rights or remedies it may have under applicable law, take remedial action, such as but not limited to, suspending, removing or disabling Customer’s access to the Online Services.
6. Company may suspend Customer’s access to, or use of, the Online Services if Company believes that there is a significant threat to the functionality, security, integrity, or availability of the Online Services or any content, data, or applications in the Online Services.
7. Fees; Invoices; Payment and Taxes. If a fee is due under any amendment to this Agreement or if Customer orders additional services not included in this Agreement, the fee and invoice schedule for the Online Services will be described in such amendment or order. In such cases, Customer will pay Company invoices in full net 30 days from the date of the invoice. Company reserves the right to require full or partial payment in advance before proceeding with the Online Services. Company reserves the right to charge fees for the provision of additional services requested by Company that are neither included in nor contemplated by this Agreement on the Effective Date. All fees are non-cancelable and all payments are nonrefundable, except as described in this Agreement. Customer is responsible for any sales, value-added or other similar taxes imposed by applicable law that Company must pay based on the Online Services, except for taxes based on Company’s income. Unless Customer provides Company with an exemption certificate reasonably in advance of the Company issuing an invoice, Company will invoice Customer for such taxes, and Customer will pay such taxes in accordance with the payment terms described herein.
8. Subcontractors. Company may perform certain aspects of the Online Services (e.g., administration, maintenance, support, disaster recovery, data processing, etc.) from locations and/or through use of subcontractors, worldwide. Such subcontractors will be permitted to access Customer Content only to deliver the services Company has retained them to provide and will be prohibited from using Customer Content for any other purpose. Use of such subcontractors will not relieve Company from its obligations to Customer under this Agreement.
9. Confidentiality. Each party acknowledges that any information marked “confidential” or “proprietary” that it receives from the other party during the Term of this Agreement is the confidential or proprietary information (the “Confidential Information”) of the other party. All information relating to MyLiNX, the Online Services, and the terms of this Agreement is the Confidential Information of Company. The party receiving Confidential Information (“receiving party”) from the other party (“disclosing party) will maintain all Confidential Information in confidence and will not exploit such Confidential Information other than in the performance of its obligations under this Agreement or use of the Online Services, or disclose such Confidential Information to any third party, other than its employees and agents with a need to know such information; provided that each such employee or agent must have executed a confidentiality agreement having terms at least as protective as this Section or is otherwise bound by the confidentiality obligations of the receiving party under this Section. The receiving party will safeguard Confidential Information with the same degree of care which it uses to protect its own confidential information, which will not be less than reasonable care.

Confidential Information does not include information which: (i) is already available to the public at the time of receipt; (ii) becomes publicly available through no fault of the receiving party; (iii) is already known to the receiving party at the time of its receipt thereof, as shown by its written records; (iv) is made available to the receiving party from a third party who is under no obligation of confidentiality with respect to such information; (v) is independently developed by the receiving party without use of the Confidential Information; or (vi) is required to be disclosed by the receiving party as a matter of law or judicial or governmental order, provided that the receiving party will use reasonable efforts to provide the disclosing party with prior written notice of such disclosure so that the disclosing party may seek a protective order. The parties’ obligations under this Section will survive the termination of this Agreement for a period of three (3) years.

1. Warranty; Exclusive Remedy and Disclaimers.
2. Company warrants that: (i) it has full right and authority to perform its obligations hereunder; and (ii) all material aspects of the Online Services will be performed using commercially reasonable skill and care consistent with standards generally accepted in Company’s business. If the Online Services are not performed as warranted, then Customer must notify Company in writing (and specifically identify the non-performance) within thirty (30) days of such non-performance.
3. Customer represents and warrants that: (i) it has full right and authority to perform its obligations hereunder; (ii) its use of the Online Services will comply with all applicable federal, state, county and local laws, ordinances, codes, rule and regulations; (iii) it will use the Online Services strictly in accordance with the terms of this Agreement; (iv) no Customer Content will infringe the intellectual property rights or other rights of any third party; (v) it will not coerce or unduly influence any Product end user or owner into selecting Customer as its service provider under the MyLiNX App; and (vi) it has secured all necessary licenses and/or authorizations for Company to use the Customer Content pursuant to the terms of this Agreement.
4. CUSTOMER’S EXCLUSIVE REMEDY FOR A BREACH OF WARRANTY BY COMPANY, AND COMPANY’S ENTIRE LIABILITY, WILL BE THE REPERFORMANCE OF THE PORTION OF THE ONLINE SERVICES THAT FAILED TO CONFORM TO THE WARRANTY WITHOUT CHARGE TO CUSTOMER. IF COMPANY CANNOT SUBSTANTIALLY CORRECT THE BREACH IN A COMMERCIALLY REASONABLE MANNER, THEN CUSTOMER MAY TERMINATE THIS AGREEMENT AS DESCRIBED IN SECTION 8 AND COMPANY WILL PROVIDE CUSTOMER WITH A PRO-RATED REFUND OF ANY FEES PAID BY CUSTOMER BASED ON THE NUMBER OF MONTHS REMAINING IN THE APPLICABLE TERM AT THE TIME OF SUCH TERMINATION.
5. COMPANY DOES NOT WARRANT THAT THE ONLINE SERVICES WILL BE PERFORMED ERROR-FREE OR UNINTERRUPTED, THAT PRODUCT DATA WILL BE ACCURATE OR AVAILABLE TO CUSTOMER, THAT COMPANY WILL CORRECT ALL ONLINE SERVICES ERRORS, OR THAT THE ONLINE SERVICES WILL MEET CUSTOMER’S REQUIREMENTS OR EXPECTATIONS. COMPANY IS NOT RESPONSIBLE FOR ANY ISSUES RELATED TO THE PRODUCTS, OR THE PERFORMANCE, OPERATION OR SECURITY OF THE ONLINE SERVICES THAT ARISE FROM CUSTOMER CONTENT OR THIRD PARTY CONTENT OR SERVICES PROVIDED BY THIRD PARTIES. TO THE EXTENT NOT PROHIBITED BY LAW, THE WARRANTY DESCRIBED IN THIS SECTION IS EXCLUSIVE AND THERE ARE NO OTHER EXPRESS OR IMPLIED WARRANTIES OR CONDITIONS INCLUDING FOR SOFTWARE, HARDWARE, SYSTEMS, NETWORKS OR ENVIRONMENTS OR FOR MERCHANTABILITY, SATISFACTORY QUALITY AND FITNESS FOR A PARTICULAR PURPOSE.
6. Limitation of Liability, Disclaimer. CUSTOMER UNDERSTANDS THAT THE INTERNET IS NOT ESTABLISHED OR MAINTAINED BY COMPANY SO COMPANY HAS NO CONTROL OVER IT. ACCORDINGLY, COMPANY, ITS PARENT, ITS SUBSIDIARIES OR AFFILIATES WILL NOT BE LIABLE FOR ANY DAMAGES THAT CUSTOMER MAY INCUR AS A RESULT OF THE DISCONTINUANCE OR INTERRUPTION OF THE INTERNET OR THE REGULATION THEREOF WHICH MIGHT RESTRICT OR PROHIBIT THE OPERATION OR USE OF THE ONLINE SERVICES. IN NO EVENT WILL COMPANY, ITS PARENT, ITS SUBSIDIARIES OR AFFILIATES BE LIABLE TO CUSTOMER FOR ANY INDIRECT, SPECIAL, INCIDENTAL OR CONSEQUENTIAL DAMAGES RESULTING FROM OR ARISING OUT OF OR RELATED TO THIS AGREEMENT, THE PRODUCTS, COMPANY’S PERFORMANCE OR FAILURE TO PERFORM THE ONLINE SERVICES AS DESCRIBED IN THIS AGREEMENT, WHETHER OR NOT COMPANY HAS BEEN ADVISED, KNEW OR SHOULD HAVE KNOWN OF THE POSSIBILITY OF SUCH DAMAGES, INCLUDING BUT NOT LIMITED TO LOST PROFITS, WHETHER SUCH LIABILITY IS BASED ON CONTRACT, TORT, NEGLIGENCE, STRICT LIABILITY OR OTHERWISE. Company’s total liability, if any, and Customer’s exclusive remedy with respect to this Agreement is limited to an amount not to exceed the price paid for the Online Services in the most recent twelve (12) month period.
7. Indemnity. Customer agrees to indemnify and hold harmless Company from any and all claims, losses, damages, charges, expenses (including any and all reasonable expenses involving attorney’s fees) which may be made against Company, its parent, its subsidiaries, affiliates, employees, officers, directors, agents or representatives (“Indemnified Parties”) or which any of the Indemnified Parties may incur arising out of Customer’s: (i) negligent actions, omissions or willful misconduct; (ii) breach of this Agreement; (iii) improper use of MyLiNX, the Online Services, Company Content or Customer Content; (iv) maintenance or service of any Product; (v) interactions with a Product end user or owner or related person; or (vi) breach of any applicable law or regulation.
8. Product Complaints. Customer will promptly report to Company any Product complaint that alleges deficiencies related to the identity, quality, durability, reliability, safety, effectiveness, or performance of the Product. Customer will cooperate with Company in its, its parent, or its subsidiaries, investigation and resolution of such complaints and take reasonable steps to preserve the Product subject to the complaint. Customer will retain or return such Product to Company, or its parent company, in cases of alleged serious injury, death or property damage.
9. Discounts and Rebates. Customer acknowledges that the price paid for the Online Services may be subject to discounts or rebates, and that it has an obligation to report such discounts and rebates, and provide information upon request, to Medicare, Medicaid, or other state health care programs in accordance with the requirements of the federal health care programs’ anti-kickback law (42 USC 1320a-7b(b)) and its implementing regulations (42 CFR 1001.952) and any applicable state law requirements.
10. Export. Export laws and regulations of the United States and any other relevant local export laws and regulations apply to the Online Services. Such export laws govern use of the Online Services (including technical data) and any Online Services deliverables provided under this Agreement. The parties agree to comply with all such export laws and regulations (including “deemed export” and “deemed re-export” regulations). Customer agrees that no data, information, software programs and/or materials resulting from the Online Services (or direct product thereof) will be exported, directly or indirectly, in violation of these laws, or will be used for any purpose prohibited by these laws.
11. Insurance. Each of the parties will maintain insurance policies (or a program of self-insurance), during the Term of this Agreement and thereafter, with sufficient liability coverage necessary for the conduct and operation of their respective business. Proof thereof may be requested by either party upon or prior to execution of this Agreement, and upon reasonable request thereafter by the other party.
12. Independent Contractor. Company is Customer’s independent contractor and not Customer’s employee, agent, joint venturer or partner. Neither party has the authority to incur any obligations on the part of the other party.
13. Force Majeure. Company will not be liable for failure to perform the Online Services during any period in which performance is delayed by fire, storm, flood, earthquake, strike, lockout, accident, terrorism, labor dispute, civil commotion or other national disasters, war, riot, embargo or the action, regulation, law, order restriction of any government authority. Company is not subject to any liability to Customer for failing to perform the Online Services during the period such inability exists.
14. Notice. Any notice to be given under this Agreement must be in writing and sent by certified mail with confirmation of delivery requested or by courier service with confirmation of delivery, to a party at its address on the signature page of this Agreement or at such other addresses as either party may provide to the other party during the Term.
15. Miscellaneous. (a) Customer may not assign this Agreement or the responsibility for payment hereunder without Company’s prior written consent. (b) The laws of the State of Ohio, without reference to its principles of conflicts of laws, will govern this Agreement and its interpretation and construction. The federal and state courts located in Cuyahoga County, Ohio will have exclusive jurisdiction over all disputes arising under this Agreement. (c) This Agreement may be executed in any number of counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument. (d) No waiver of or failure to enforce any provision of this Agreement will be binding unless in writing and signed by the party against whom enforcement of the waiver is sought. No waiver by any party of any provision will be deemed a waiver of any subsequent breach of that same provision or of any other provision of this Agreement. (e) The headings in this Agreement are intended for convenience only and will not be used to interpret this Agreement. (f) If any provision of this Agreement is deemed to be illegal, unenforceable, or invalid, in whole or in part, the validity and enforceability of the remaining provisions will not be affected or impaired, and will continue in full force and effect. (g) This Agreement sets forth the entire understanding of the parties with respect to the subject matter described herein and supersedes all other agreements, oral or written, or other understandings between the parties with respect to the subject matter hereof. No additional terms, conditions, consent, waiver, alteration, or modification will be binding unless in writing and signed by an authorized representative of Company and Customer. (h) Provisions that survive termination or expiration of this Agreement are those relating to limitation of liability, indemnification, payment and others which by their nature are intended to survive.

**EXHIBIT B**

**MyLiNX ONLINE SERVICES**

Subject to the terms and conditions in Exhibit A, the Online Services include:

1. Access to one (1) MyLiNX account at [www.mylinxworld.com](http://www.mylinxworld.com) in the Customer’s name, where such account includes access by one (1) account administrator, and access by Customer’s authorized account users, where such authorized account users will be selected and controlled by Customer. Customer is responsible for all its account users and will ensure all such users will comply with the terms of this Agreement.
2. Ability of Customer’s MyLiNX account administrator to:
* create new authorized account users; and
* enable, disable and control access to MyLiNX by authorized account users.
1. Ability of Customer’s authorized account users to:
* add new Products to the Customer account;
* create and maintain sub-groups of Products;
* enter Customer Data specific to a Product;
* view the diagnostic information available for Products, subject to the end user or owner of a Product: (a) selecting Customer as his or her service provider through the MyLiNX App, and (b) connecting their Product to MyLiNX through the MyLiNX App and making Product data available in MyLiNX; and
* create reports based on available Product data.
1. Access to online MyLiNX support via **mylinxsupport@dynamiccontrols.com**.