

THIS COMBINATION AGREEMENT is made between:

- (1) **MAX MOBILITY, LLC**, a limited liability company, with offices at 5425 Crossings Blvd, Antioch, TN 37013, USA ("**Max Mobility**"); and
- (2) **INVACARE INTERNATIONAL GMBH**, reg. no CHE-109.561.251, a company formed under the laws of Switzerland with registered office at Benkenstrasse 260, 4108 Witterswil, ("**Invacare**").

Max Mobility and Invacare are hereinafter individually referred to as a "**Party**" and jointly as the "**Parties**".

1 SCOPE AND COMBINATION OF PRODUCTS

- 1.1 Invacare develops, manufactures and sells wheelchairs for distribution across the world.
- 1.2 Max Mobility manufactures and supplies equipment for wheelchairs for distribution across the world.
- 1.3 Within their respective business areas, the Parties have agreed that the manual wheelchairs set out in Appendix 1, developed and manufactured by Invacare (hereinafter "**Wheelchairs**"), can be combined with the electric motor SmartDrive Wheelchair Power Assist, set out in Appendix 1, developed and manufactured by Max Mobility (hereinafter "**SmartDrive**"), provided that the combination is made only by skilled staff as defined by Max Mobility and in accordance with instructions and restrictions of both manufacturers. Hereby a combined product is created (hereinafter "**Combined Product**"). Wheelchairs and SmartDrive are hereinafter separately referred to as "**Product**" or "**Products**".
- 1.4 To regulate the liability of the Combined Product and the responsibility for accidents, claims handling, breaches etc. associated with the use of the Combined Product, the Parties have entered into this Agreement.
- 1.5 This Agreement covers Products distributed within the European Economic Area (EEA).

2 GUARANTEES ACCORDING TO THE ORIGINAL PRODUCTS

- 2.1 Invacare represents with respect to its Wheelchairs, and Max Mobility represents with respect to SmartDrive, that their respective products in their originally contemplated use are CE-marked and meet the requirements of applicable Council Directives concerning Class I medical devices and the relevant national standards.
- 2.2 Max Mobility is responsible to verify and test that the SmartDrive is appropriate to combine with the Wheelchair and that the instructions and restrictions are properly prescribed in the applicable mounting instructions and in the user manual of the SmartDrive. This includes compliance with warnings, cautions and instructions, including, but not limited to, all minimum and maximum values and restrictions, *inter alia*, dimensional requirements, torque specifications, weight limitations and all maintenance recommendations.

3 LIABILITY OF THE COMBINED PRODUCT

- 3.1 Max Mobility undertakes to be liable for, and shall indemnify, defend and hold harmless Invacare from, all injury to any person or property and direct damages caused by the use of the Combined Product that would not have occurred but for the combination of Products.
- 3.2 Max Mobility's liability according to paragraph 3.1 does not comprise damages caused by incidents or accidents that are assigned to the original function and performance of the Wheelchair itself.

4 INCIDENTS

- 4.1 Both Parties undertake to co-operate fully with all investigations, whether governmental or conducted by one of the Parties, of incidents involving or relating to the Combined Products.

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- 4.2 Invacare shall make available to Max Mobility all reasonably necessary (a) technical information relating to the Wheelchairs and (b) support for Max Mobility to be able to assess liability and investigate any claims brought forward in relation to a Combined Product. Max Mobility shall make available to Invacare all reasonably necessary technical information related to SmartDrive and support Invacare to be able to assess liability and if necessary, investigate any claims related to a Combined Product.
- 4.3 Both Parties shall notify the other Party in writing of any claim for defective Combined Products and any Combined Product-related quality complaint from any Customer within five (5) Business Days after such Party initially receives notice of such claim or complaint.

5 INFORMATION OBLIGATIONS

- 5.1 Max Mobility undertakes to inform Invacare about any changes that could affect the Parties' obligations under this Agreement, or changes in form, fit and function of the SmartDrive, including but not limited to changes relating to regulatory requirements, constructional, composition or packaging of the SmartDrive, the use or intended use of the SmartDrive. Invacare undertakes to inform Max Mobility about any changes that could affect the Parties' obligations under this Agreement or any changes to the form, fit or function of the Wheelchairs which could affect the mounting of the SmartDrive on the Wheelchair, including but not limited to changes relating to regulatory requirements, constructional, composition or packaging of any Wheelchair, the use or intended use of any Wheelchair.
- 5.2 The Parties undertake to inform each other about any events or incidents involving the health, safety, quality, or anything relating to the Combined Product which in any way could be detrimental to the image or reputation of either Party.
- 5.3 Information according to paragraph 5.1 and 5.2 shall be given immediately, as soon as the actual change has become known, and shall be given in writing.
- 5.4 Prior to releasing the Combined Product into commerce, Max Mobility undertakes to provide Invacare with documentation establishing that validation of the Combination Product was successfully performed. Thereafter, Max Mobility undertakes to immediately inform Invacare about any changes that could affect such validation.
- 5.5 The Parties undertake to inform each other about any proposed regulatory-related communications or actions to be taken with any governmental authority or regulatory body related to the Combined Product, provided that such communication or action may affect the Combined Product from a regulatory perspective. Neither Party will make such regulatory communications or take such action without the prior written consent of the other Party, which will not be unreasonably withheld.

6 TERM AND TERMINATION

- 6.1 The Agreement shall from its undersigning be valid for an indefinite period of time.
- 6.2 Each Party is entitled to terminate the Agreement with 30 days' notice. Such termination shall be given in writing. Notwithstanding the foregoing, if Max Mobility has a binding contract or tender in effect with a national or regional authority for the purchase and sale of the SmartDrive at the time Invacare notifies Max Mobility of its intention to terminate this Agreement, then the Agreement shall continue in full force and effect until such contract or tender has expired, but only in relation to products to be supplied under the binding contract or tender so that Max Mobility is able to fulfil its obligations under such agreement.
- 6.3 Each Party is entitled to terminate the Agreement with immediate effect if the other Party:
- (a) fails to fulfil any of its obligations under the Agreement, provided such failure is of material importance to the non-breaching Party and, provided the breach is being capable of remedy, the Party in breach has failed to remedy the breach within thirty (30) calendar days following written notice thereof from the non-breaching Party;

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- (b) becomes insolvent, files for bankruptcy, takes advantage of any legal scheme or arrangement for the satisfaction of creditors, if a petition in bankruptcy, for receivership or for winding up is taken by it or against it or becomes subject to any proceedings under any bankruptcy or insolvency law, whether domestic or foreign, or is liquidated, voluntarily or otherwise;
- (c) either Party discovers that the other Party has made a material misrepresentation in any materials provided; or
- (d) enactment or adoption of any change in applicable law or other change in circumstances that makes it illegal, impossible or impracticable to sell the Combined Products as contemplated by this Agreement.

7 CONFIDENTIALITY

For the purposes of this Agreement "**Confidential Information**" means all confidential or proprietary information of a Party (however recorded or preserved) and includes financial information, trade secrets and know-how, customer information, and other confidential information attributable to the Parties or their affiliates or which a Party from time to time may receive or obtain as a result of entering into or performing its obligations pursuant to the Agreement, but excluding (i) information which is or becomes known to the general public other than through a breach of the Agreement or another undertaking of confidentiality towards either Party; (ii) information which the receiving Party can show was in its lawful possession before receiving such information from the other Party; (iii) information which a Party has received or receives from a third party without any lawful restraints as to the disclosure thereof; and (iv) the fact that this Agreement has been entered into and the content thereof. For the avoidance of doubt, both Parties are allowed to share this Agreement with other third parties.

- 7.1 Each Party undertakes to (i) not disclose any Confidential Information to any person other than any of its directors or employees who needs to know such information in order to properly discharge their respective duties; (ii) not use any Confidential Information other than for the purpose of the proper performance of its obligations under the Agreement; and (iii) procure that any person to whom any Confidential Information is disclosed by it complies with the restrictions contained in this Section 7 as if such person were a party to the Agreement.
- 7.2 Notwithstanding the provisions of Section 7.1, a Party may disclose Confidential Information (i) if and to the extent required by applicable law or for the purpose of any judicial proceedings; (ii) if and to the extent required by any securities exchange or regulatory or governmental body to which the Party is subject or submits, wherever situated whether or not the requirement has the force of applicable law; (iii) to its professional advisers, provided that such advisers are bound by confidentiality towards the Party; and (iv) if and to the extent the other Party has given prior written consent to the disclosure.

8 GOVERNING LAW AND DISPUTE RESOLUTION

- 8.1 This Agreement shall be construed and enforced according to the laws of the State of New York. The parties hereto expressly waive any right to trial by jury with respect to any dispute related to this Agreement and consent to the jurisdiction of the courts of State of New York.

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SIGNATURES

For and on behalf of
MAX MOBILITY, LLC

Authorised signature

Print name

Print title

Place and date

Authorised signature

Benjamin Hemkens

Print name

Director of Operations, Max Mobility

Print title

Antioch 8-13-2018

Place and date

For and on behalf of
INVACARE INTERNATIONAL GMBH

Authorised signature

Roland Betz

Print name

VP QARA EMEA

Print title

Witerswil 13.8.2018

Place and date

Authorised signature

Print name

Print title

Place and date

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APPENDIX 1

WHEELCHAIRS

The below products are covered by this Agreement;

Invacare branded Wheelchairs: Action 3, Action 4, Action 5 & MyOn HC, Action XT, Spirea 4 & XLT

Küschall branded Wheelchairs: Compact, Compact Attract, Ultra-Light, Champion, Advance, K-series Attract, K-series & KSL.

Max Mobility products: SmartDrive MX2+ Wheelchair Power Assist

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