

Terms & Conditions

Before continuing setup, please read each provision of these terms carefully. These terms set forth the legally binding terms and conditions for your use of the services (defined below). By setting up the services, you agree to be legally bound by these terms. If you do not agree to the terms and conditions stated herein, including the arbitration and class action waiver provisions, you may not use the LUCI system.

▼ 1. Definition of Terms

LUCI, LLC (“**LUCI®**”) provides a proprietary electronic controller that attaches to the wheelchair including to the joystick, the footplate, and a sheet metal harness that attaches to the power base that contains multiple sensors for determining distance, position, orientation, and environment for the wheelchair (the “**LUCI® System**” and, the wheelchair on which it is installed, “**Your Wheelchair**”).

“**You**” or “**User**” (and all of its derivations) means You individually, and any person acting as Your agent, under Your authority, or with Your permission. You represent and warrant that You are: (a) at least 18 years of age (or the minimum age in your jurisdiction for entering into a binding contract) and (b) capable of entering into a legally binding agreement; *provided however*, that if You are under 18 years old or under a disability that impacts Your ability to enter into a binding contract, then “**You**” includes your custodial parent or legal guardian, and You may use the LUCI® Service only under the supervision of such parent or legal guardian who agrees to be bound by the Terms.

In some instances, separate terms and conditions setting forth additional terms will apply to Your use of the LUCI® System (in each such instance, and collectively, “**Additional Terms**”). The Additional Terms include the relevant Wheelchair Owners Safety Guide or Manual and are incorporated into the Terms by this reference. LUCI® does not manufacture the wheelchair itself. Therefore, it is not liable to You for any loss or damage arising from Your non-compliance with the Additional Terms. *Please print or save the Wheelchair Owners Safety Guide or Manual for Your records.*

▼ 2. Dispute Resolution and Arbitration - PLEASE REVIEW AS THIS AFFECTS YOUR LEGAL RIGHTS

- A. Generally. In the interest of resolving disputes between You and LUCI® in the most expedient and cost-effective manner, You and LUCI agree that every dispute arising in connection with these Terms will be resolved by binding arbitration. Arbitration is less formal than a lawsuit in court. Arbitration uses a neutral arbitrator instead of a judge or jury, may allow for more limited discovery (the process in which each party can obtain evidence from the other party) than in court, and can be subject to very limited review by courts. Arbitrators can award the same damages and relief that a court can award. This agreement to arbitrate disputes includes all claims arising out of or relating to any aspect of these Terms (direct and indirect), including without limitation Your purchase, use, or ownership of the LUCI® System, whether based in contract, tort, statute, fraud, misrepresentation, or any other legal theory, and regardless of whether a claim arises during or after the termination of these Terms. **YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND LUCI® ARE EACH WAIVING THE RIGHT TO A TRIAL BY JURY.**
- B. No Class Actions. YOU AND LUCI® AGREE THAT EACH MAY BRING CLAIMS AGAINST THE OTHER ONLY IN YOUR OR ITS INDIVIDUAL CAPACITY AND NOT AS A PLAINTIFF OR CLASS MEMBER IN ANY PURPORTED CLASS OR REPRESENTATIVE PROCEEDING. Further, unless both You and LUCI® agree otherwise, the arbitrator may not consolidate more than one person’s claims, and may not otherwise preside over any form of a representative or class proceeding. **YOU UNDERSTAND AND AGREE THAT, BY ENTERING INTO THESE TERMS, YOU AND LUCI® ARE EACH WAIVING PARTICIPATION IN A CLASS ACTION.**
- C. Arbitral Body. Any arbitration between You and LUCI® will be settled under the U.S. Federal Arbitration Act, and governed by the Commercial Dispute Resolution Procedures and the Supplementary Procedures for Consumer Related Disputes (collectively, “**AAA Rules**”) of the American Arbitration Association

(“AAA”), as modified by these Terms, and will be administered by the AAA. The AAA Rules and filing forms are available online at www.adr.org, by calling the AAA at 1-800-778-7879, or by contacting LUCI® at info@mluci.com.

- D. **Notice; Process.** A party who intends to seek arbitration must first send a written notice of the dispute to the other party by certified U.S. Mail or by Federal Express (signature required) or, only if such other party has not provided a current physical address, then by electronic mail (“**Dispute Notice**”). LUCI®’ address for Dispute Notice under this Section is: 101 Creekside Crossing, Suite 1700, #244, Brentwood TN 37027, Attention: Disputes. The Dispute Notice must describe the nature and basis of the claim or dispute and set forth the specific relief sought (“**Demand**”). Your address for Dispute Notice is the current address provided by You when the LUCI® System is installed on Your Wheelchair. The parties will make good faith efforts to resolve the claim directly, but if the parties do not reach an agreement to do so within thirty (30) days after the Dispute Notice is received, You or LUCI® may commence an arbitration proceeding. The arbitration will be conducted in Tennessee or telephonically. During the arbitration, the amount of any settlement offer made by You or LUCI® must not be disclosed to the arbitrator until after the arbitrator makes a final decision and award, if any. If the dispute is finally resolved through arbitration in Your favor, LUCI® will pay You the highest of the following: (a) the amount awarded by the arbitrator, if any; (b) the last written settlement amount offered by LUCI® in settlement of the dispute prior to the arbitrator’s award; or (c) one thousand U.S. dollars (US \$1,000)
- E. **Fees.** If You commence arbitration in accordance with these Terms, LUCI® will reimburse You for Your payment of the filing fee, unless Your claim is for more than ten thousand U.S. dollars (US \$10,000) as specified in the complaint, in which case the payment of any fees will be decided by the AAA Rules. Any arbitration hearing will take place at a location to be agreed upon in Nashville, Tennessee, but if the claim is for ten thousand U.S. dollars (US \$10,000) or less, You may choose whether the arbitration will be conducted: (a) solely on the basis of documents submitted to the arbitrator; (b) through a non-appearance based telephone hearing; or (c) by an in-person hearing as established by the AAA Rules in the county (or parish) of Your billing address. If the arbitrator finds that either the substance of Your claim or the relief sought in the Demand is frivolous or brought for an improper purpose (as measured by the standards set forth in U.S. Federal Rule of Civil Procedure 11(b)), then the payment of all fees will be governed by the AAA Rules. In that case, You agree to reimburse LUCI® for all monies previously disbursed by it that are otherwise Your obligation to pay under the AAA Rules. Regardless of the manner in which the arbitration is conducted, the arbitrator must issue a reasoned written decision sufficient to explain the essential findings and conclusions on which the decision and award, if any, are based. The arbitrator may make rulings and resolve disputes as to the payment and reimbursement of fees or expenses at any time during the proceeding and upon request from either party made within fourteen (14) days of the arbitrator’s ruling on the merits.

▼ 3. Warranty and Disclaimer of Warranties

- A. LUCI® warrants to You for a period of 3 years after Your receipt of the LUCI® System that it will be free from manufacturing defects.
- B. Except for the warranty expressly set forth in paragraph 1(a) above, LUCI® makes no other warranty, express or implied. **THE LUCI® SYSTEM AND RELATED EQUIPMENT ARE PROVIDED “AS IS” AND “AS AVAILABLE” AND ANY IMPLIED WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR NONINFRINGEMENT IS HEREBY DISCLAIMED BY LUCI®. LUCI® AND ITS LICENSORS AND SUPPLIERS MAKE NO WARRANTY THAT DEFECTS WILL BE CORRECTED OR THAT THE LUCI® SYSTEM: (A) WILL MEET YOUR REQUIREMENTS; (B) WILL BE AVAILABLE ON AN UNINTERRUPTED, TIMELY, SECURE, OR ERROR-FREE BASIS; OR (C) WILL BE ACCURATE OR RELIABLE. NO ADVICE OR INFORMATION, WHETHER ORAL OR WRITTEN, OBTAINED BY YOU FROM LUCI®, THROUGH THE LUCI® SYSTEM, OR FROM YOUR ASSISTIVE TECHNOLOGY PROFESSIONAL (“ATP”) OR ANY OTHER PARTY SHALL CREATE ANY WARRANTY. YOU ASSUME ALL RISKS ASSOCIATED WITH YOUR USE OF THE LUCI® SYSTEM. IT IS YOUR SOLE RESPONSIBILITY TO DETERMINE WHETHER THE LUCI® SYSTEM IS SUITABLE AND ADEQUATE FOR YOUR NEEDS.**

▼ 4-5. Limitation of Liability & Indemnification

4. LIMITATION OF LIABILITY.

Except as otherwise provided in Section 3, in no event shall LUCI® or any of its representatives be liable under the Terms to You or any third party for CONSEQUENTIAL, INDIRECT, INCIDENTAL, SPECIAL, PUNITIVE OR EXEMPLARY DAMAGES, OR EXPENSES OF ANY KIND, **including those relating to direct claims for breach of these Terms and other direct claims by the user against LUCI®**. LUCI®' maximum liability shall not in any case exceed 10 times the purchase price for all potential claims that may arise under the Terms, regardless of whether the claim is based on contract, breach of warranty, negligence, strict liability, or otherwise, notwithstanding any failure of essential purpose or of any limited remedy. In no event shall LUCI® or any of its representatives be liable under the Terms to You or any third party for actions by employees taken outside the scope of employment.

5. INDEMNIFICATION.

You will indemnify and hold harmless LUCI®, [its affiliates, parents, subsidiaries, licensors, suppliers, and partners, and each of its and their respective employees, contractors, directors, and representatives] from all liabilities, claims, damages (actual and consequential), injuries, losses, causes of actions (**including LUCI®' own negligence**), fines, and expenses (including legal and other professional fees and costs of investigation) that arise from or relate to any direct claims (claims by You against LUCI®), indirect claims (claims by third parties against LUCI®), other claims or alleged damage or injury arising from Your use or operation of the LUCI® System, or Your other activities in connection with Your use of the LUCI® System or Your Wheelchair, including: (a) the use or misuse of the LUCI® System or Your Wheelchair, or (b) violation of law, these Terms, or any third party rights, including the misappropriation, violation, or infringement of any intellectual property, privacy, or other rights of any person or entity.

▼ 6-8. Governing Law and Jurisdiction, License, and Compliance with Law

6. Governing Law and Jurisdiction.

The Terms, including the arbitration provision in Section 4, and including all claims or causes of action (whether in contract, tort, or statute) that relate to the Terms will be governed by and construed in accordance with the laws of the State of Tennessee, including its conflicts of law rules. You agree that any dispute arising from or relating to the subject matter of these Terms that is not subject to arbitration pursuant to Section 4 shall be brought in the state and Federal courts of Nashville, Tennessee.

7. LICENSE.

So long as You comply with these Terms, LUCI® grants You a limited, non-exclusive, as-is, revocable, non-transferable license, without right of sublicense, to use the software incorporated in the LUCI® System for Your personal use solely in connection with your use of Your Wheelchair. You may not use the LUCI® System, including the software incorporated therein, for any purpose other than as set forth in these Terms. Without limitation of the foregoing, You will not (and will not permit any third party to): (a) interfere or attempt to interfere with the proper working of the LUCI® System; (b) decipher, decompile, disassemble, reverse engineer or otherwise attempt to derive any source code or underlying ideas or algorithms of the software incorporated in the LUCI® System or make or attempt to make any modification to the LUCI® System, except as expressly permitted by these Terms; (c) modify, translate, or otherwise create derivative works of the software incorporated in the LUCI® System; or (d) sell, resell, copy, rent, lease, loan, distribute, or charge any party for access to or use of the LUCI® System.

8. COMPLIANCE WITH LAW.

You will comply with all applicable federal, state, and local laws, rules, regulations, directives, and governmental requirements relating to Your use of the LUCI® System. If You are prohibited under applicable law from using

the LUCI® System or any portion thereof, You may not use it. You represent and warrant that (i) You are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country and (ii) You are not listed on any U.S. Government list of prohibited or restricted parties.

▼ 9-10. Use and Termination of Use of LUCI® SYSTEM

9. USE OF LUCI® SYSTEM.

- **Customization.** The LUCI® System has been designed to assist with mobility and utility. The LUCI® System is set to factory default. If the factory default conditions do not meet Your needs, a range of options are available to further customize the system to better suit Your needs and/or preferences. It is the responsibility of Your Assistive Technology Professional (“ATP”), or other clinic or healthcare professional to evaluate Your LUCI® System and make any necessary adjustments to suit Your specific capability/physical limitations, including without limitation mobility, stability, eyesight, range of motion, and reaction time. Your ATP and other clinic and healthcare professionals are responsible for ensuring that the LUCI® System is properly setup for safe use on Your Wheelchair.
- **Third-party Setup.** LUCI® is not liable for the clinician or ATP’s assessment of Your abilities and configuration of the wheelchair setup, including but not limited to incorrectly or ineffectively customizing the LUCI® System to Your ability.
- **Third-party Equipment.** You are responsible for any equipment not provided by LUCI® used in connection with the LUCI® System, such as the wheelchair itself. LUCI® shall not be liable for any damages arising from Your use of third -party equipment, including the wheelchair, in connection with the LUCI® System.
- **Maintenance.** You must follow all recommended maintenance schedules for the LUCI® System and the wheelchair itself. LUCI® does not assume liability for Your failure to undertake any necessary maintenance and repair work. You are not entitled to obtain maintenance or repairs from an unauthorized dealer or service provider.
- **Changes to Personal Information.** You are responsible for promptly notifying us and Your ATP if there are any changes to Your personal information such as mobility level, range of motion, or eyesight so that your ATP may update the System customization and make any other applicable immediately. LUCI® does not assume liability for Your failure to notify us of any personal changes in the event that a collision or other safety event occurs.
- **Misuse.** You must use the LUCI® System in accordance with the System’s specifications. LUCI® does not assume liability for Your misuse of the System or the misuse of any person acting as Your agent, under Your authority, or with Your permission.
- **Instructions for Use.** You must follow all of the instructions in the Instructions for Use of the LUCI® System. LUCI® is not liable for Your failure to follow these instructions
- **Software Updates.** LUCI® may, but has no obligation to, update the software incorporated in the LUCI® System from time to time, including by providing improvements, updates, new functionality, bug fixes, or other modifications (collectively “**Updates**”). These Updates may occur automatically, without notice or any request for additional consent from You. You hereby consent to the receipt and installation of Updates on Your LUCI® System. If You do not wish to receive Updates, You must stop using the LUCI® System. If the LUCI® System asks You to install Updates, You agree to do so promptly. Updates are part of the LUCI® System and subject to these Terms, as well as any additional terms that may be provided with the Update. By continuing to use the LUCI® System after receipt of an Update, You agree to all terms applicable to such Update. You are responsible for installing all Updates. LUCI® does not assume liability for Your failure to install any Updates for the LUCI® System as they become available.
- **Technical Issues.** LUCI® assumes no obligation or liability for any matters relating to a disruption in service or data resulting from (i) the on-chair Wi-Fi system; (ii) a depletion in Your Wheelchair’s battery; (iii) joystick failure; (iv) the secure Bluetooth key; or other technical or mechanical issues outside of LUCI®’ direct control, including any issue related to services provided by any third party.

10. TERMINATION.

LUCI® may discontinue the LUCI® System at any time, with or without cause, with or without notice, effective immediately. In such event, You shall have the right to continue using the LUCI® System installed on Your Wheelchair but may not transfer Your LUCI® System to, or use it on, another wheelchair.

▼ 11. Miscellaneous

- A. **Safety Check.** Before each use of the LUCI® System, You shall conduct a safety inspection, which includes inspecting the following: (i) safe operation of the LUCI® System; (ii) sufficient battery charge power for Your Wheelchair; (iii) any sign of damage, unusual or excessive wear, or other mechanical problem or maintenance needed for the LUCI® System or Your Wheelchair; (vi) appropriate functioning of Your wheelchair pursuant to the safety terms for such wheelchair.
1. If at any time, whether prior to, during, or after using the LUCI System, You discover any defect or notice any other potentially unsafe condition, no matter how slight, You must not use the LUCI System, or, if You are already using the LUCI System, You must immediately cease using it when it is safe to do so.
 2. You agree to immediately report the defect or condition to LUCI® at lucihelps@luci.com.
 3. **If You do not strictly comply with the aforementioned requirements, You shall be totally and completely liable for any and all consequences, claims, demands, causes of action, losses, liabilities, damages, injuries, fees, costs and expenses, penalties, attorneys' fees, judgments, suits settlements, and/or disbursements of any kind, or nature whatsoever, whether foreseeable or unforeseeable, and whether known or unknown.**
- B. **Entire Agreement and Severability.** These Terms and any other documentation for the LUCI System made available to You by LUCI® contain the entire understanding between You and LUCI® with respect to the subject matter hereof and supersede all previous oral or written agreements or understandings between them with respect to the matters included in these Terms. The invalidity or unenforceability of any term or provision of these Terms shall in no way affect the validity or enforceability of any other term or provision of these Terms.
- C. **Force Majeure.** LUCI® will not be liable for any failure to perform its obligations hereunder where such failure results from any cause beyond its reasonable control, including an act of God, including flooding or other natural disaster, mechanical, electronic, or communications failure or degradation.
- D. **Headings; Interpretation.** The headings identifying the various sections and subsections of the Terms are for reference only and do not define, modify, expand, or limit any of the terms or provisions herein. For purposes of these Terms: (a) the words “include,” “includes”, and “including” will be deemed to be followed by the words “without limitation”; (b) the words “such as”, “for example”, “e.g.”, and any derivatives of those words will mean by way of example and the items that follow these words will not be deemed an exhaustive list; (c) the word “or” is used in the inclusive sense of “and/or” and the terms “or,” “any,” and “either” are not exclusive; (d) the words “herein,” “hereof,” “hereby,” “hereto” and “hereunder” refer to this Agreement as a whole; and (e) the singular includes the plural and the plural includes the singular.
- E. **Assignment.** These Terms are personal to You, and are not assignable, transferable, or sublicensable by You except with LUCI’s prior written consent. LUCI® may assign, transfer or delegate any of its rights and obligations hereunder without Your consent. Any assignment or transfer or purported assignment or transfer in violation of this Section 10(E) is null and void.
- F. **Agency.** No agency, partnership, joint venture, or employment relationship is created as a result of these Terms and neither party has any authority of any kind to bind the other in any respect.
- G. **Notices.** Unless otherwise specified in these Terms, all notices under these Terms will be in writing and will be deemed to have been duly given when received, if personally delivered or sent by certified or registered mail, return receipt requested; when receipt is electronically confirmed, if transmitted by facsimile or e-mail; or the day after it is sent, if sent for next day delivery by recognized overnight delivery service. You may contact LUCI® at the following address:

Address: 101 Creekside Crossing
Suite 1700, #244
Brentwood, TN 37027

Telephone: (615) 486-4554

Email: info@luci.com

You consent to receiving certain electronic communications from LUCI® as further described in the LUCI Privacy Policy. Please read the LUCI Privacy Policy to learn more about LUCI's electronic communications practices. You agree that any notices, agreements, disclosures, or other communications that LUCI® sends to You electronically will satisfy any legal communication requirements, including that those communications be in writing.

- H. No Waiver. LUCI's failure to enforce any part of these Terms will not constitute a waiver of LUCI's right to later enforce that or any other part of these Terms. Waiver of compliance in any particular instance does not mean that LUCI® will waive compliance in the future. In order for any waiver of compliance with these Terms to be binding, LUCI® must provide You with written notice of such waiver through a LUCI® authorized representative.
- I. Government Users. The software incorporated in the LUCI System and related documentation are "Commercial Items", as that term is defined at 48 C.F.R. §2.101, consisting of "Commercial Computer Software" and "Commercial Computer Software Documentation", as such terms are used in 48 C.F.R. §12.212 or 48 C.F.R. §227.7202, as applicable. Consistent with 48 C.F.R. §12.212 or 48 C.F.R. §227.7202-1 through 227.7202-4, as applicable, the Commercial Computer Software and Commercial Computer Software Documentation are being licensed to U.S. Government end users (a) only as Commercial Items and (b) with only those rights as are granted to all other end users pursuant to the terms and conditions herein. Unpublished-rights reserved under the copyright laws of the United States.

▼ 12. User Safety Notice

Your safety is important to us. If there is any information in the Terms which You do not understand, or if You require additional assistance for setup or operation, please contact Your ATP or contact LUCI® at lucihelps@luci.com. Failure to follow the instructions, warnings, and notes in the Terms and those located on Your product can result in personal injury or product damage and will void the product warranty.

▼ 13. Acceptance of TERMS BY USER

- A. By clicking "AGREE," I certify that I am **at least 18 years old** at the time of consent, I am the sole user of the LUCI wheelchair system, and of sufficient mental capacity to understand and consent to these Terms. I have read and expressly agree to the terms and conditions set forth, including specifically, **the arbitration, indemnification, and class action waiver provisions.**

OR

- B. By clicking "AGREE," I certify that I am the parent and/or legal guardian of the minor User, **that the minor User is the sole user** of the LUCI System, and that I am at least 18 years old at the time of consent and of sufficient mental capacity to understand and consent to these Terms. I have read, and I expressly agree to, the terms and conditions, including specifically, **the arbitration, indemnification, and class action waiver provisions.** I authorize use of the LUCI System by the minor User. I will supervise and ensure that the minor User complies with all of the terms set forth in these Terms and I expressly agree to indemnify and hold LUCI® harmless against any and all misuse, consequences, direct and indirect claims, demands, causes of action, losses, liabilities, damages, injuries, fees, costs and expenses, penalties, attorneys' fees, judgments, suits and/or disbursements of any kind, or nature whatsoever, whether foreseeable or unforeseeable, and whether known or unknown, as a result of the minor's use of the LUCI System and/or any of the Services. I further expressly guarantee the minor's acceptance of the Terms, and I will be responsible for any breach of the above representations, warranties and/or these Terms, and/or any attempt of the minor to disaffirm these Terms.

OR

C. By clicking “AGREE,” I certify that I am the legal guardian of the adult User, that the adult User is at least 18 years old, and the sole user of the LUCI System, and that I am at least 18 years old at the time of consent and of sufficient mental capacity to understand and consent to these Terms. I have read, and I expressly agree to, the terms and conditions, including specifically, the arbitration, indemnification, and class action waiver provisions. I authorize use of the LUCI System by the adult User through my account. I will supervise and ensure that the adult User complies with all of the terms set forth in these Terms and I expressly agree to indemnify and hold LUCI® harmless against any and all misuse, consequences, direct and indirect claims, demands, causes of action, losses, liabilities, damages, injuries, fees, costs and expenses, penalties, attorneys’ fees, judgments, suits and/or disbursements of any kind, or nature whatsoever, whether foreseeable or unforeseeable, and whether known or unknown, as a result of Your use of the LUCI System and/or any of the Services. I further expressly guarantee Your acceptance of the terms, and I will be responsible for any breach of the above representations, warranties and/or these Terms, and/or any attempt of You to disaffirm these terms.

OR

D. By clicking “AGREE,” I certify that I am at least 18 years old at the time of consent, **I am the sole Assistant Technology Professional** assisting the User with setup of the LUCI System, and that **I witnessed the User review and consent** to the terms and conditions set forth in these Terms, including specifically, the arbitration, indemnification, and class action waiver provisions.