

TERMS AND CONDITIONS OF SALE TO DISTRIBUTORS

These Terms and Conditions of Sale (these “Terms”) govern all sales of Products (as defined below) by Belluscura PLC, a public limited company formed in England, or Belluscura LLC, a Delaware limited liability company (as applicable, “Belluscura”) to any distributor or reseller of Products (“Distributor”). Belluscura and Distributor are each a “Party” and collectively the “Parties.” If Distributor does not understand or agree to these Terms, Distributor should not place an Order (as defined below).

- 1. Acceptance.** These Terms govern Distributor’s purchase of any products from Belluscura (“Products”).

 - If Belluscura tenders these Terms to Distributor before Distributor tenders a purchase order or similar document to Belluscura, then these Terms are in lieu of any terms Distributor may later submit and Belluscura rejects all of Distributor’s additional or different terms and conditions, whether confirmatory or otherwise.
 - If Belluscura tenders these Terms after Distributor tenders other terms (whether as part of a purchase order or otherwise), then Belluscura’s acceptance of Distributor’s offer to purchase Products associated with Distributor’s terms is expressly conditioned upon Distributor’s acceptance of these Terms exclusively and to the exclusion of Distributor’s proffered terms or conditions, regardless of whether these Terms contain any terms additional to, or different from, any of Distributor’s proffered terms.
 - Distributor’s purchase of any Product from Belluscura constitutes Distributor’s acceptance of these Terms. Notwithstanding the above, if Distributor and Belluscura have entered into a separate written agreement signed by Distributor and a Belluscura officer that covers the sale and resale of the Products (a “Separate Agreement”), such Separate Agreement will govern to the extent it is inconsistent with these Terms.
- 2. Appointment as a Reseller.** Subject to these Terms, Belluscura appoints Distributor, and Distributor accepts the appointment, to act as a non-exclusive reseller or distributor of Products to end users of the Products (“Customer(s)”). Belluscura may, in its sole discretion, sell Products directly to Customers or enter into similar agreement with any other Customer, reseller, retailer, or other party.
- 3. Orders.** Distributor may place orders for Products (“Orders”) through Belluscura’s website or by calling Belluscura’s customer service center using the contact information listed at <https://www.belluscura.com/contact>. By submitting an Order, Distributor is making an offer to Belluscura to purchase the selected Products on these Terms. Belluscura has the right, in its sole discretion, to accept or reject any such offer. Belluscura’s acceptance of an Order only occurs when Belluscura ships the Products under an Order, at which time Distributor and Belluscura will have a binding contract (even if Belluscura processes Distributor’s payment before shipment). Belluscura may refuse an Order for any reason or no reason, and will have no liability to Distributor for refusing an Order.
- 4. Prices.** The price of each Product will be either (a) the price set forth in a quotation Belluscura delivers to Distributor, which quotation will expire 30 days after delivery, (b) the then-current price for such Product at the time Belluscura accepts the Order (Belluscura’s current price lists are available upon request), or (c) if applicable, the agreed-upon price set forth in a Separate Agreement. Belluscura reserves the right to change prices without notice; however, prices in effect at the time of Order acceptance will prevail. Quoted and stated prices do not include any applicable sales, use, privilege or export taxes, custom duties, or other tax of any kind imposed by any government authority (collectively, “Taxes”) or shipping and handling costs. If Distributor is tax-exempt, Distributor must provide Belluscura with a tax-exemption certificate that the relevant taxing authorities accept.
- 5. Payment.** Payment terms are set forth in each Purchase Order acceptance as agreed to by Distributor and Belluscura.
- 6. Product Changes and Substitutions.** Belluscura reserves the right to (a) make changes to Products without notice, and without any obligation to incorporate those changes in any Products previously delivered to Distributor, and (b) ship to Distributor the most current Product regardless of catalog description, if applicable.
- 7. Shipment.** Unless expressly agreed to by the Parties in writing, Belluscura shall select the method of shipment of and the carrier for the Products, with delivery at the location specified in the Order. Distributor shall pay for all shipping and handling charges for the Products.
- 8. Title and Risk of Loss.** Title to Products and risk of loss will pass to Distributor when Belluscura delivers the Products to a common carrier for delivery to Distributor, regardless of who pays for shipping. Distributor is responsible for damage to Products incurred in transit or before receipt by Distributor. Distributor must bring all damage, concealed or otherwise, to the common carrier’s attention at the time of delivery. Distributor is responsible for filing all claims against the common carrier and collecting any related damages from the common carrier.

9. **Inspection and Acceptance; Nonconforming Products.**

(a) **Inspection; Acceptance.** Distributor will be deemed to have accepted any delivered Products unless Distributor notifies Belluscura in writing of any Nonconforming Product (as defined below) within 5 days of delivery. For purposes of these Terms, a “**Nonconforming Product**” means only the following: (i) a shipped item that is different than the Product identified in Distributor’s Order, (ii) packaging or labeling that incorrectly identifies its contents, or (iii) a Product that was damaged or defective at the time Belluscura shipped such Product to Distributor.

(b) **Remedies for Nonconforming Products.** If Distributor timely notifies Belluscura of any Nonconforming Products and returns such Nonconforming Products to Belluscura as required in **Section 9(c)**, Belluscura will either, in its sole discretion, (i) replace such Nonconforming Products with conforming Products, or (ii) credit or refund the price Distributor paid for such Nonconforming Products. Distributor acknowledges and agrees that remedies in this **Section 9(b)** are Distributor’s exclusive remedies for the delivery of a Nonconforming Product.

(c) **Returning Nonconforming Products.** Distributor will not be entitled to any remedies in **Section 9(b)** unless and until Distributor returns the Nonconforming Products to Belluscura. Distributor must obtain a Return Materials Authorization (“**RMA**”) number from Belluscura before returning a Nonconforming Product. Belluscura may elect not to accept any returns that do not reference an RMA number. Distributor must include a statement detailing the specific reason for any return. Distributor shall be liable for all labor associated with Belluscura’s verification time if Belluscura reasonably determines that a returned Product was not a Nonconforming Product.

10. **Limited Customer Warranty.**

(a) **Limited Customer Warranty.** Belluscura warrants to each Customer that each Product will be free from defects in materials and workmanship under normal use and service (the “**Limited Customer Warranty**”) for the time period set out in the warranty statement accompanying such Product (the “**Warranty Period**”). The Warranty Period for a Product will begin on the day Belluscura ships the Product to Distributor (the “**Shipment Date**”). THE LIMITED CUSTOMER WARRANTY DOES NOT COVER ANY DAMAGE OR DEFECT CAUSED BY OR RESULTING FROM TRANSPORTATION, STORAGE, IMPROPER USE, ANY FAILURE TO FOLLOW BELLUSCURA’S PRODUCT INSTRUCTIONS, NORMAL WEAR AND TEAR, ACCIDENTS, OR UNAUTHORIZED REPAIRS OR ALTERATIONS. The Limited Customer Warranty will only apply if (i) Distributor or the applicable Customer notifies Belluscura in writing of the defective Product promptly after the discovery of the defect, and (ii) Distributor or the applicable Customer returns the defective Product within the Warranty Period to Belluscura accompanied by with a statement detailing the defect.

(b) **Exclusive Remedy.** Belluscura’s sole liability and a Customer’s sole and exclusive remedy for any breach of the Limited Customer Warranty will be, at Belluscura’s option, to repair or replace the defective Product.

(c) **Disclaimer.** BELLUSCURA MAKES NO REPRESENTATION OR WARRANTY, EXPRESS, IMPLIED (INCLUDING BUT NOT LIMITED TO WARRANTIES OF MERCHANTABILITY AND FITNESS FOR PARTICULAR PURPOSES), OR STATUTORY, REGARDING THE PRODUCTS OTHER THAN THE LIMITED CUSTOMER WARRANTY IN **SECTION 10(a)**. THERE ARE NO OTHER REPRESENTATIONS OR WARRANTIES REGARDING THE PRODUCTS. THE REMEDIES SET FORTH IN **SECTION 10(b)** ARE THE EXCLUSIVE REMEDIES AVAILABLE TO ANY CUSTOMER FOR BREACH OF THE LIMITED CUSTOMER WARRANTY. BELLUSCURA EXPRESSLY EXCLUDES LIABILITY FOR LOST PROFITS, CONSEQUENTIAL DAMAGES, TORT DAMAGES, STRICT LIABILITY DAMAGES, AND LIQUIDATED DAMAGES IN CONNECTION WITH ANY BREACH OF THE LIMITED CUSTOMER WARRANTY.

11. **Repairs or Replacements beyond Warranty.** A Customer must contact Belluscura for instructions and assistance if it wishes to return any Product for repair or replacement that is not covered under the Limited Customer Warranty. Such Customer must ship such Product to a designated repair facility at such Customer’s expense, and such Customer will be responsible for standard repair charges.

12. **Distribution Restrictions.** Distributor must comply with all state, federal, and foreign government laws and regulations governing the sale and distribution of medical devices and oxygen concentrators in connection with Distributor’s purchase, sale, and distribution of Products. To the extent that any Products are medical devices regulated by the United States Food and Drug Administration (“**FDA**”), Distributor shall be responsible for ensuring that any Customer purchasing such Products from Distributor has a valid medical prescription from an authorized medical authority or a license to use such Products in the United States. Distributor represents and warrants to Belluscura that Distributor is and will remain in full compliance with all applicable state, federal, and foreign government laws and regulations, including all applicable FDA requirements, related to Distributor’s purchase, use, and sale of all Products.

13. **Intellectual Property.** Belluscura retains all intellectual rights in and to all designs, patents, trademarks, engineering details, and other technology and information pertaining to the Products (“**Product IP Rights**”). Neither Distributor nor any Customer will acquire any Product IP Rights. These Terms do not convey any right or license to manufacture, duplicate, or otherwise copy such Products or any Product IP Rights. Distributor will not remove, alter, or obscure any copyright, trademark, service mark, or other proprietary rights notices incorporated in or accompanying any Product or any Product-related materials.

14. **Indemnification.** Distributor must indemnify, defend and hold Belluscura harmless from and against any and all claims, liability, damages, costs, and expenses (including reasonable attorneys' fees and litigation expenses) (collectively, "Losses") arising out of or resulting from (i) Distributor's sale or distribution of any Product, or (ii) Distributor's breach of these Terms, in each case, except where Belluscura's sole negligence caused such Losses.

15. **Liability Limitation.** Distributor's recovery from Belluscura for any claim will not exceed the amount Distributor paid Belluscura for the Product(s) giving rise to such claim, regardless of the nature of the claim (whether in agreement, tort, warranty, or otherwise). Distributor will never be entitled to, and Belluscura will never be liable for, indirect, special, incidental, or consequential damages of any kind, including, without limitation, loss of profit or revenue, or injury to reputation, even if Distributor has advised Belluscura of the possibility of such damages.

16. **Force Majeure.** Belluscura will not be liable for failing to fulfill any obligations under these Terms if events beyond Belluscura's reasonable control (including, but not limited to, acts of God, natural disasters, acts or omissions of other parties, acts or omissions of civil or military authority, changes in law, material shortages, fire, strikes, floods, epidemics, quarantine restrictions, riots, war, acts of terrorism, transportation delays, or inability to obtain labor or materials through its regular sources) cause such failure. In such an event, Belluscura's time for performing such obligations will be extended for the duration of such delay or Belluscura may, at its option, cancel any Order or remaining part of an Order without liability by giving Distributor notice of such cancellation.

17. **Miscellaneous.**

(a) **Entire Agreement.** These Terms, together with any Separate Agreement, contain Belluscura's and Distributor's entire agreement related to the Products and Belluscura's sale of the Products to Distributor, and supersede any prior negotiations, discussions, or agreements related to the Products or Belluscura's sale of the Products to Distributor. These Terms may be modified only by an amendment signed by a Belluscura officer.

(b) **Governing Law; Venue.** If Distributor is located in the United States or places an Order from within the United States, then Texas law will govern the validity, interpretation, and performance of these Terms, without regard to any conflicts of law principles, and the state and federal courts in Dallas, Texas USA will have exclusive jurisdiction over any disputes between Distributor and Belluscura related to these Terms. If Distributor is not located in the United States and does not place an Order from within the United States, then English law will govern the validity, interpretation, and performance of these Terms, and the courts in London, England UK will have exclusive jurisdiction over any disputes between Distributor and Belluscura related to these Terms.

(c) **Notices.** All notices, consents, approvals, and other communications in connection with these terms ("Notices") must be in writing. Belluscura may send Notices to Distributor by sending an email to the email address Distributor provides in connection with the related Order, and such Notices will be effective when Belluscura sends such email. Distributor must deliver Notices to Belluscura by personal delivery, overnight courier, or registered or certified mail to the address set forth below (and such Notices will be effective upon receipt):

Attn: CEO _____
5504 Democracy Drive _____
Suite 200 _____
Plano, TX 75204 _____

(d) **Waivers.** Belluscura's failure to enforce any right or provision under these Terms will not constitute a waiver of that right or provision. No waiver by Belluscura will be effective unless signed by a Belluscura officer.

(e) **Assignments.** Distributor has no right to transfer, assign, or delegate any rights or obligations under these Terms, by operation of law, merger, or otherwise, without Belluscura's prior written consent. Any attempted or purported assignment in violation of this Section 17(e) will be ineffective. Belluscura may transfer, assign or delegate any rights, duties, agreements, or obligations under these Terms by operation of law, merger, assignment, or otherwise.