

## WALMART MARKETPLACE PROGRAM

### RETAILER AGREEMENT

(Standard Terms and Conditions for Walmart Marketplace Program)

#### **Welcome to the Walmart.com Marketplace Program.**

This Marketplace Retailer Agreement (“**Agreement**”) consists of (1) these Standard Terms and Conditions for Walmart Marketplace Program (“**Terms and Conditions**”) and (2) all Walmart.com Marketplace Program polices and guidelines for Retailers, (together, the “**Retailer Policies**”), which are incorporated by reference.

Any entity (“**Retailer**” or “**you**”) that wants to sell goods or services (“**Products**”) in the Walmart.com Marketplace through the Walmart.com site or any Walmart applications (“**Walmart.com Sites**”), use any order processing, fulfillment, shipping or other services related to the Walmart.com Marketplace provided by or for Walmart (“**Walmart.com Services**”), or use any platform, portal, web service, application, interface, or other tool provided by or for Walmart.com in connection with the Walmart.com Marketplace (“**Walmart.com Tools**”), must accept the terms of this Agreement without change.

**By clicking the “I AGREE” button located below or by offering any Products for sale on the Walmart.com Marketplace, using any of the Walmart.com Services, or using any of the Walmart.com Tools, you agree to be bound by all terms and conditions of this Agreement (including the Retailer Policies), as this Agreement (or the Retailer Policies) may be updated from time to time in accordance with this Agreement. You further represent and warrant that you are registering with the Walmart.com Marketplace on behalf of an entity and that you have the requisite right, power, and authority to enter into this Agreement on behalf of the entity you register with the Walmart.com Marketplace.**

Walmart.com may change these Terms and Conditions or the Retailer Policies at any time in its sole discretion. The changes will be effective upon posting of such updates on the “Partner Portal,” which is the primary web-based interface provided to you by Walmart.com as part of the Marketplace Program. You are responsible for reviewing such postings and any applicable changes. Your continued participation in the Marketplace Program, including offering any Products for sale on the Walmart.com Marketplace, using any of the Walmart.com Services, or using any of the Walmart.com Tools constitutes your acceptance of such changes. If you do not agree to any posted changes, do not continue to use the Walmart.com Marketplace, the Walmart.com Services, or the Walmart.com Tools.

#### **1. Walmart.com’s Role**

Walmart.com, through the Walmart.com Marketplace Program, provides the Walmart.com Sites, Walmart.com Tools, and Walmart.com Services to enable you to sell your Products to third party buyers (“**Customers**”). You may only sell those Products you have the legal right to sell and must do so consistent with the terms and conditions of this Agreement. All transactions with Customers are between you and the Customer, and you will be the seller of record. Walmart.com is not a party to any transactions although Walmart.com will provide the Walmart.com Services in connection with the transactions as expressly set forth in Section 6. You acknowledge and agree that Walmart.com may contract with third party service providers to provide Walmart.com Services, management software and other services for the Walmart.com Marketplace Program.

## 2. General Product Policy

(a) **Product Guidelines.** The Terms and Conditions describe certain general obligations regarding Products you may and may not list on the Walmart.com Marketplace. The **Prohibited Products Policy** provide more detail regarding Walmart.com's product requirements. You will not list, market, promote, offer for sale, or sell any Products through the Walmart.com Sites in violation of this Agreement (including the **Prohibited Products Policy**).

(b) **Abiding by the Law.** You will (and you represent and warrant that you will) comply with all applicable "**Laws**" (meaning all applicable laws, regulations, legal requirements, and generally accepted industry standards and self-regulatory principles), including Laws related to marketing, packaging, consumer and product safety, product testing, labeling, pricing and packaging, in connection with this Agreement; your use of the Walmart.com Marketplace, the Walmart.com Services, and the Walmart.com Tools, and your marketing, promotion, offering for sale, or selling any Products through Walmart.com. Upon Walmart.com's request, you will promptly provide Walmart.com with (i) certificates of authenticity (or similar documentation) for Products, (ii) documentation (e.g. email verifications from the brand owner or supplier) showing that you have a legal right to sell the Products through the Walmart.com Sites, (iii) documentation (e.g. email verifications from applicable rights holders) showing that you are licensed or otherwise have a right to use any Retailer Product Content (as defined below), and (iv) written certification from an officer of Retailer stating that you have complied with any of your obligations under this Agreement, including, for example and without limitation, compliance with SLAs, consumer product safety laws, and authenticity of Products.

(c) **U.S. Only.** You will only offer Products for sale on the Walmart.com Sites that may legally be sold and shipped in all U.S. states. You may not offer to sell or sell Products on the Walmart.com Sites outside of the U.S. without prior written approval from Walmart.com. You represent and warranty that your principal place of business is in the United States and you will not conduct any operations relating to this Agreement from outside the United States, except for the operation of customer service call centers

(d) **Legal Right to Sell.** You may sell a Product on Walmart.com through the Marketplace Program if you are an authorized reseller of that Product, or purchased or otherwise legally acquired that Product from an authorized reseller of that Product, or otherwise have a legal right to sell that Product.

(e) **Product Authenticity.** You may only sell Products through the Marketplace Program that are new and authentic. You will maintain adequate processes and procedures for conducting diligence to assure that Products are authentic, authorized for sale, and not stolen, counterfeit, illegal or misbranded. You may not (and you represent and warrant that you will not) list any Product or Retailer Product Content (as defined below) on the Walmart.com Sites or through the Marketplace Program that is counterfeit, illegal, stolen, or fraudulent, or infringes any third-party "**Intellectual Property Rights**" (meaning any patent, copyright, trademark, service mark, trade dress (including any proprietary "look and feel"), trade name, logo, moral right, trade secret and any other intellectual property right), or that you otherwise do not have the right to sell. All information you provide about the Product will be accurate, current, and complete and not misleading, deceptive, or fraudulent in any way.

(f) **Prohibited Listings.** Walmart.com, in its sole discretion, may prohibit you or ask you to refrain from listing any Products or providing any Retailer Product Content. In addition, Walmart.com

may remove your listings in its sole discretion in response to notices of alleged copyright infringement, trademark misappropriation, or other intellectual property claims. If Walmart.com requests that you remove Products or Retailer Product Content from the Walmart.com Sites, you will make commercially reasonable efforts to remove the Products or Retailer Product Content within 24 hours of such request so that the Products and related Retailer Product Content no longer appear on the Walmart.com Sites. You will not list or include such removed Products or Retailer Product Content on the Walmart.com Sites at any time unless their inclusion is specifically authorized by Walmart.com in writing.

### **3. Retailer Product Content and Retailer Trademarks**

You may provide certain product information and any related media, materials, links, images, and other content (together, the “**Retailer Product Content**”) in connection with this Agreement. You represent and warrant that all Retailer Product Content you provide is truthful and accurate and is in compliance with all Retailer Policies and that you will not use Retailer Product Content to redirect end users of the Walmart.com Sites to any other sales channels. You hereby grant Walmart.com and its affiliates, and its service providers and marketing partners, a non-exclusive, royalty-free, perpetual, sublicensable, irrevocable right and license (a) to publish, reproduce, display, distribute, transmit and otherwise use Retailer’s name, trademarks, service marks, and logos (“**Retailer Marks**”), and (b) to publish and perform, reproduce, distribute, transmit, display, modify, create derivative works of, and otherwise use and commercially exploit all Retailer Product Content, in each case in connection with the Walmart.com Marketplace Program (including without limitation advertising, marketing and promoting the Products, other products, or the Marketplace Program through the Walmart.com Sites, third party websites, e-mail, social media or any other medium). Walmart.com and its affiliates may permit Customers, other users of the Walmart.com Sites, and other third parties to share and post Retailer Product Content on their websites, applications, and social media outlets.

### **4. Required Product Information**

(a) **Retailer Product Content.** In order to list a product for sale on the Walmart.com Sites, you must provide all requested Retailer Product Content. A list of the data elements required for each Product can be found here. If the Product fits into a category that is subject to specific product guidelines, you may be required to provide additional Retailer Product Content for those types of products.

(b) **Inventory Feed.** You will (i) use commercially reasonable efforts to provide Walmart.com at least every hour with an error-free updated inventory feed for those Products where inventory levels have changed since the last inventory feed provided for such Product, and (ii) provide Walmart.com with a daily inventory feed for all Products.

(c) **No Unlicensed Content.** If you do not have but need a license from the brand owner or supplier to use certain content related to a Product, do not provide that content to Walmart.com.

### **5. Referral Fees and Payment**

(a) **Referral Fees.** Walmart.com will earn a referral fee equal to a percentage of the gross sales proceeds from the sale of Products (i) including all shipping and handling, gift wrap, and other charges, and (ii) excluding only those taxes separately stated and charged (the “**Referral Fee Percentage**”) from each Product sale through the Walmart.com Site (the “**Referral Fee**”) as further set forth in the **Referral Fee Schedule**. Walmart.com will remit to you the total amount it collects from the

sale of Retailer's Products, less the Referral Fee, for Products shipped in each 14-day period within 7 days of the end of such 14-day period.

(b) **Payment.** At Walmart.com's option, all payments to your bank account will be remitted through an Automated Clearing House system. If Walmart.com concludes that your actions and/or performance in connection with this Agreement may result in customer disputes, chargebacks or other claims, then Walmart.com may, in its sole discretion, delay initiating any remittances and withhold any payments to be made or that are otherwise due to you under this Agreement for the shorter of: (i) a period of 90 days following the initial date of suspension; or (ii) completion of any investigation(s) regarding your actions and/or performance in connection with this Agreement. As a security measure, Walmart.com may, but is not required to, impose transaction limits on you or some or all customers relating to the value of any transaction or disbursement, the cumulative value of all transactions or disbursements during a period of time, or the number of transactions per day or other period of time.

## 6. Purchase/Order Processing, Fulfillment, and Shipping

(a) **Order Process.** All transactions with Customers are between you and the Customer, and you will be the seller of record. Customers will place orders (the "**Orders**") using the Walmart.com checkout system and Walmart.com will collect all proceeds from such transactions on your behalf. You hereby authorize Walmart.com as your authorized agent to accept payment from Customers for remittance to you for the Products, and as such when a Customer pays Walmart.com, it shall be construed as if the Customer will be paying you. The Customer shall never be at risk of loss of funds upon payment to Walmart.com on your behalf. Walmart.com will electronically transmit to you the Order information that Walmart.com determines is necessary to fulfill each Order (the "**Transaction Information**"). Walmart.com will send an automated email message to each Customer confirming receipt of an Order.

(b) **Order Fulfillment.** Once Walmart.com has transmitted an Order to you, you will, at your own expense, be solely responsible for, and bear all liability for, the fulfillment of the Order, including without limitation, packaging and shipping Products and customer service. If you cannot fulfill the entire quantity of a purchase order ("**PO**") line in an Order, then you will cancel that PO line, fulfill all other lines in the Order and promptly notify Walmart.com of such cancellation. If the Order consists of one PO line that you cannot fulfill the entire quantity for, then you will cancel the entire Order and promptly notify Walmart.com. If you initiate the cancellation of any Order or PO line in any Order, you will promptly provide Customers with email notification of such cancellation in accordance with applicable Law (including, without limitation, the Federal Trade Commission ("**FTC**") "Mail or Telephone Order Merchandise Rule"). You will include information requested by Walmart.com, including the Order number, in the cancellation email sent to Customers.

(c) **Shipping Options.** You are responsible for properly specifying shipping options for all Products through the Walmart.com Tool as requested by Walmart.com. You will provide Walmart.com with the shipping, handling and any other charges for each Product required by the Walmart.com Tool, separate from the purchase price. You will not enable shipping in the Walmart.com Tool for any Product in any region where the sale of such product violates any Retailer Policy or applicable Law.

(d) **Shipping Process.** You will be responsible for shipping all Products purchased by Customers in accordance within the time frame advertised or the processing time specified for such Products through the Walmart.com Tool (whichever time frame is shorter) or, if no time frame is

advertised or specified, within 30 days (the “**On-Time Ship Standard**”). You will be responsible for all shipping charges and for any costs or charges related to shipping-related problems, including without limitation, damaged or lost Products, late shipments or misdelivery. If you cannot meet the On-Time Ship Standard for any Product, you will provide the customer with email notification of such delay and include information requested by Walmart.com in that notification. You will be solely liable for all costs related to any duplicate or inaccurate shipments based upon your retransmission of Order files through any Walmart.com Tool. You may only send a shipment confirmation notice to customers following shipment of an Order. Packaging for Products should not contain any Retailer marketing materials that are not included as standard marketing materials with all of your Product shipments, and emails sent by you to Customers in connection with an Order will not contain any marketing materials or links to any Retailer or third party website, except for links to shipping websites that permit the Customer to track shipment of their Order.

(e) **Shipping Status Reports.** During the Term, Walmart.com will provide you with reports on the status of Orders placed pursuant to this Agreement. The reports will be issued according to a schedule identified by Walmart.com to you from time to time. You will review each report upon receipt and provide Walmart.com with written notice of any discrepancies (a “**Discrepancy Notice**”) between the report and your fulfillment of any Orders within a commercially reasonable time period after the date of the report, but no more than 3 business days after the date of the report. You are solely responsible for monitoring and responding to reports provided by Walmart.com pursuant to this Agreement. If Walmart.com does not receive either (i) a Discrepancy Notice or (ii) a shipment confirmation notice from you within 30 days of placement of the Order, the Order may be automatically cancelled by Walmart.com and you will be solely liable and responsible for all Product costs and shipping costs associated with such cancelled Order and you forfeit any claims for any payments of Referral Fee otherwise payable under this Agreement related to such cancelled Orders.

(f) **Risk of Fraud or Loss.** Please note that, though Walmart.com will bear the risk of credit card fraud occurring in connection with an Order, you will bear all other risk of fraud or loss and all costs related thereto. For all credit card chargebacks for which you bear the risk, Walmart.com will offset such chargeback amounts against amounts otherwise owed you, or send you an invoice and you will pay such invoice within 30 days of receipt. However, notwithstanding the foregoing, Walmart.com will not bear the risk of credit card fraud in connection with any Product that is not shipped by you to the shipping address specified in the Transaction Information provided by Walmart.com, and you will be responsible for all costs related to such credit card fraud under these circumstances.

## **7. Cancellations, Returns, Refunds, and Recalls**

(a) **Cancellations and Returns.** You are responsible for processing all Customer cancellations, returns, refunds and/or customer service price adjustments. You will stop and/or cancel any Order if requested by Walmart.com; provided that if you have transferred Products to a shipper, you will use commercially reasonable efforts to stop and or cancel delivery by the shipper. Your return and refund policies for Products sold through the Walmart.com Sites will be no less favorable to Customers than your most favorable policies offered on your website (“**Retailer Site**”) for such Products. You will notify Walmart.com of any material changes to your customer return, refund or price adjustment policies at least 5 days prior to your implementation of such changes.

(b) **Refunds.** You will be responsible for all non-cash refunds (e.g., store credit, gift cards and exchanges). If you determine a Customer is due a cash refund (e.g., via a refund to the Customer’s

credit card, debit card or other form of original payment) you will notify Walmart.com through the Partner Portal and include other related information requested by Walmart.com. For cash refunds Walmart.com will provide the refund to the Customer via the Customer's original payment method (e.g., credit or debit card) if possible and Walmart.com will refund to you the amount of the Referral Fee attributable to the amount of the Customer refund (excluding any refunded taxes), less the lesser of: (i) five dollars (\$5.00); or (ii) 20% of such Referral Fee; provided that Walmart.com will have no liability for refunds offered by you in excess of the purchase price. If you provide Customer directly with a cash or non-cash refund, Walmart.com will retain the full amount of the Referral Fee attributable to such Customer refund. If Walmart.com makes a cash refund to a Customer for a Product returned to you, Walmart.com, in its sole discretion, will obtain a refund of the payment received by you for such returned Products either (i) via offset of any amounts payable by Walmart.com to you or (ii) by billing you for such amounts.

(c) **Recalls.** Walmart.com will have no responsibility or liability for any recalls of Products sold through the Walmart.com Sites. You are solely responsible for any non-conformity or defect in, or any public or private recall of Retailer's Products. You will promptly remove any recalled Products from the Walmart.com Sites by unpublishing or retiring the Product through the Walmart.com Tool. You will notify Walmart.com by e-mail at [ordermanagement@walmart.com](mailto:ordermanagement@walmart.com) of all Product recalls within 24 hours of becoming aware of the recall and will promptly provide Walmart.com with all information reasonably requested regarding the recall.

## **8. Parity Pricing, Special Offers and Promotions**

(a) **Parity.** You will maintain parity between the Products you offer through any other online sales channel and the Products offered on the Walmart.com Sites by ensuring that at all times: (a) except for in connection with Excluded Offers, the purchase price and every other term of offer and/or sale of the Products (including associated shipping and handling charges and options, any "low price" guarantee, rebate or discount, any free or discounted products or other benefit available as a result of purchasing one or more other products, and terms of applicable return and refund policies) is at least as favorable to Walmart.com users as the most favorable terms upon which a product is offered and/or sold via any other online sales channel; (b) customer service for the Products is at least as responsive and available and offers at least the same level of support as the most favorable customer service offered in connection with the Retailer Site; and (c) the Retailer Product Content provided by you to Walmart.com for the Walmart.com Sites (i) is of least the same level of quality as the highest quality information displayed or used on the Retailer Site or any other online sales channel for Retailer's Products and (ii) provides users of the Walmart.com Sites with at least as much product information, images and other content as the information provided on the Retailer Site or any other online sales channel for Retailer's Products. If you become aware of any non-compliance with (a) above, you will promptly notify Walmart.com and compensate adversely affected Customers by making appropriate refunds to such Customers in accordance with the procedures set forth in Section 7 for providing customers with cash refunds.

(b) **Special Offers and Promotions.** You will notify Walmart.com by email at [marketplace\\_promotions@walmart.com](mailto:marketplace_promotions@walmart.com) (or through any Walmart.com Tool specified by Walmart.com) of all special offers and promotions (i.e., where you discount an item or items by a certain amount for a certain period of time) offered on the Retailer Site. You will make special offers and promotions available to Walmart.com Customers in connection with the Marketplace Program, and will use commercially reasonable efforts to allow Walmart.com to support any such special offer or promotion

through the Walmart.com Tool. If you make any public promotions generally available to all users of the Retailer Site (“**Public Promotions**”) and Walmart.com cannot support such Public Promotion, then you will provide an equivalent offer or promotion to Walmart.com Customers to the extent possible. You will work in good faith with Walmart.com to maximize the number of Retailer offers and promotions (including equivalent offers and promotions) made available to Walmart.com Customers. Walmart.com may choose, in its sole discretion, not to permit certain special offers or promotions offered by you on the Walmart.com Sites (e.g., where Walmart.com cannot support the special offer or promotion) and may request that you filter out any such special offers or promotions. Notwithstanding the foregoing, you will not be required to make available to Walmart.com Customers (i) private promotions offered only to all or a subset of your existing customers by e-mail or regular mail; (ii) Public Promotions that Walmart.com has indicated in writing that it cannot support and an equivalent offer or promotion cannot be provided; (iii) non-product specific offers such as “low price” guarantees, global and/or category specific coupons that the customer must take action to redeem; (iv) offers which are either not advertised as redeemed at or otherwise not redeemable at the point of sale, such as without limitation mail-in rebates and manufacturer incentives; or (v) incentives provided in connection with any loyalty program (collectively, “**Excluded Offers**”); provided that, if Walmart.com is able to support any Excluded Offer at any time during the Term and desires to do so, it will notify you and after receipt of such notification and you will make such special offer or promotion available to Walmart.com in connection with the Marketplace Program.

## 9. Customer Service

(a) **Obligations.** You will be responsible for all customer service, except for issues related to payment. In performing such customer service, you will always represent yourself as a separate entity from Walmart.com. You will not disparage Walmart.com or its affiliates or its or their Products or services when performing customer service obligations or any other obligation under this Agreement. If you monitor or record customer service calls, you must give notice of such monitoring or recording to all Customers during each such call prior to providing any customer service.

(b) **Adjustments.** Walmart.com reserves the right to provide a customer service adjustment (not to exceed the total amount paid by such Customer in connection with the Products, including without limitation, taxes and gift wrapping and shipping fees) to a Customer that Walmart.com reasonably determines has not been dealt with correctly by your customer service in accordance with the **Customer Service Escalation Guidelines**, and offset such amounts against amounts otherwise owed you or by billing you for such amounts.

## 10. Reporting and Audit Rights

(a) **Reporting.** You will, within a reasonable period of time (not to exceed 30 days) following request from Walmart.com, provide Walmart.com with any reports, information or other documentation relating to your compliance with this Agreement and applicable Law reasonably requested by Walmart.com. In the event Walmart.com requests that you provide Walmart.com with copies of reports that you were required to file with the CPSC or any other regulatory agency, you will provide such reports within 7 days of Walmart.com's written request.

(b) **Audit Rights.** You will keep accurate and complete books, records and accounts related to Marketplace Program transactions and this Agreement, and will allow Walmart.com, or its duly authorized representative, the right, upon not less than 5 business days prior written notice, during the

Term of this Agreement and for 2 years after its termination or expiration, to conduct, during regular business hours, full and independent audits and investigations of all information, books, records and accounts reasonably required by Walmart.com to confirm your compliance with the terms of this Agreement and applicable Law.

## 11. Ownership and Use Rights

(a) **Ownership of Walmart.com Marketplace.** Walmart.com, its affiliates, and their service providers and licensors retain all right, title and interest (including all Intellectual Property Rights) in and to (i) the Walmart.com Marketplace, the Walmart.com Sites, the Walmart.com Tools, and the Walmart.com Services, (ii) all data received from you in connection with the foregoing, and (iii) any of their confidential or proprietary information. Except for a limited right for you to access the Walmart.com Websites and Walmart.com Tools made available to you in accordance with and subject to all the terms and conditions of this Agreement, Walmart.com, its affiliates, and their service providers and licensors, as applicable, retain all rights in the foregoing and grant no other rights or licenses (whether by implication, estoppel, or otherwise) under any of their Intellectual Property Rights under or in connection with this Agreement.

(b) **Ownership of Transaction Information.** Walmart.com owns (and you hereby assign to Walmart.com) all Transaction Information and all other information relating to Orders or Products, including but not limited to information that is entered into a Walmart.com Tool, information that is created as a result of a transaction, and ratings and reviews provided by Customers. All such information is subject to the Walmart.com [Privacy Policy](#) and any additional privacy guidelines posted by Walmart.com on the Partner Portal.

(c) **Use of Transaction Information.** You may only use Transaction Information to further a transaction related to this Agreement, in accordance with the terms of the Agreement, the Walmart.com Privacy Policy and any other applicable Privacy Policies (including the Retailer Site Privacy Policy), and applicable Law. You will not (i) disclose or convey any Transaction Information to any third party (except as necessary for you to perform your obligations under the Agreement); (ii) use any Transaction Information to conduct customer surveys or for any marketing or promotional purposes; (iii) contact a Customer that has ordered a Product that has not yet been delivered with the intent to collect any amounts in connection therewith or to influence such Customer to make an alternative or additional purchase; (iv) target communications of any kind on the basis of the intended recipient being a Walmart.com user; or (v) use any information about Walmart.com Customers gained through the Marketplace Program to directly solicit such Walmart.com Customers through any other sales channels. The foregoing does not prevent you from using information you gathered independent of the Marketplace Program, provided that you do not target communications on the basis of the intended recipient being a Walmart.com user.

(d) **Ratings and Reviews.** Walmart.com may use mechanisms that rate or review, or allow shoppers to rate or review, your Products and your performance as a seller and Walmart.com may make these ratings publicly available. Walmart.com will have no liability to you for the content or accuracy of any ratings or reviews. You will have no ownership interest in or license to use any rating or reviews posted on the Walmart.com Sites.

(e) **Suggestions and Feedback.** If you provide or make available suggestions, comments, ideas, improvements or other feedback or materials to Walmart.com or its affiliates in connection with



the Walmart.com Marketplace, the Walmart.com Sites, or other subject matter of this Agreement, Walmart.com will be free to disclose, reproduce, modify, license, transfer and otherwise distribute, and use and exploit any of the foregoing feedback or materials in any manner.

## **12. Termination or Suspension; Survival**

Walmart.com may terminate this Agreement with you at any time in its sole discretion without notice to you on the Partner Portal or otherwise. Walmart may also immediately terminate or suspend your participation in the Walmart.com Marketplace, your access to Walmart.com Services or the Walmart.com Tools, or remove your listings at any time in its sole discretion if you violate the terms of this Agreement. Sections 3, 6, 7, 9, 10, 11, 12, 13, 14, 15 and 16 shall survive the expiration or termination of this Agreement for any reason.

## **13. General Release and Indemnification**

(a) **General Release.** Walmart.com and its affiliates are not parties to any transactions through the Marketplace Program between you and any Customers or the manufacturers or distributors of the Products. You hereby release (and agree to release) Walmart.com and its affiliates (and their respective employees, shareholders, directors, agents and representatives) from any all claims, costs, losses, damages (including any indirect, special incidental, or consequential damages), judgments, fines, penalties, penalties, interest, costs, and expenses (including reasonable attorneys' fees and costs of any investigation, defense, and settlement) arising out of any Claims involving you and any third party or governmental entity or agency.

(b) **Section 1542.** You agree that the release set forth in this Agreement may apply to unknown and unanticipated claims, damages, and expenses, and you waive any rights that you might have under Section 1542 of the California Civil Code or any other similar enactment of any jurisdiction. California Civil Code Section 1542 states:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM MUST HAVE MATERIALLY AFFECTED HIS SETTLEMENT WITH THE DEBTOR.

(c) **Indemnity.** You will defend (at Walmart.com's option), indemnify and hold Walmart.com and its affiliates (and their respective employees, shareholders, directors, agents and representatives) harmless from and against any and all claims, costs, losses, damages (including any indirect, special incidental, or consequential damages), judgments, fines, penalties, penalties, interest, costs, and expenses (including reasonable attorneys' fees and costs of any investigation, defense, and settlement) arising out of any Claims that arise out of or relate to: (i) any breach (or alleged acts or omissions that if true would be a breach) of any of your representations, warranties, or obligations set forth in this Agreement; or (ii) the Retailer Site or other sales channels, the Products, any Retailer Product Content, the advertisement, offer, sale or return of any Products, any actual or alleged infringement of any Intellectual Property Rights by you, the Products, or any Retailer Product Content, or any taxes owed by you, or the collection, payment or failure to collect or pay such taxes. You will provide all cooperation, documentation, and information reasonably requested by Walmart.com in connection with any Claim. Walmart.com will have the right to control all defense and settlement of Claims.

(d) **Claims.** “Claim” means any action, allegation, claim, demand, lawsuit, legal proceeding, administrative or other proceedings or litigation, inquiry, audit, or investigation.

#### **14. Limitation of Liability**

(a) **No Consequential Damages.** IN NO EVENT SHALL WALMART.COM OR ITS AFFILIATES BE LIABLE TO YOU OR ANY THIRD PARTY UNDER ANY THEORY OF TORT, CONTRACT, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR (A) LOST PROFITS, LOST REVENUE, LOSS OF BUSINESS OR LOSS OF DATA, (B) EXEMPLARY, PUNITIVE, SPECIAL, INCIDENTAL, INDIRECT OR CONSEQUENTIAL DAMAGES OR THE LIKE, OR (C) FOR COST OF COVER, RECOVERY OR RECOUPMENT OF ANY INVESTMENT, EACH OF WHICH IS HEREBY EXCLUDED BY AGREEMENT OF THE PARTIES REGARDLESS OF WHETHER SUCH DAMAGES WERE FORESEEABLE OR WHETHER WALMART.COM HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) **Monetary Cap.** IN NO EVENT SHALL WALMART.COM’S OR ITS AFFILIATES’ AGGREGATE LIABILITY TO YOU OR ANY THIRD PARTY FOR ANY CLAIMS, COSTS, LOSSES, DAMAGES (INCLUDING ANY INDIRECT, SPECIAL INCIDENTAL, OR CONSEQUENTIAL DAMAGES), JUDGMENTS, FINES, PENALTIES, PENALTIES, INTEREST, COSTS, AND EXPENSES (INCLUDING REASONABLE ATTORNEYS' FEES AND COSTS OF ANY INVESTIGATION, DEFENSE, AND SETTLEMENT) FOR ANY REASON WHATSOEVER, AND REGARDLESS OF THE FORM OF ACTION OR LEGAL THEORY, EXCEED THE TOTAL REFERRAL FEES PAID BY YOU TO WALMART.COM PURSUANT TO THIS AGREEMENT DURING THE SIX MONTH PERIOD PRECEDING THE EVENT GIVING RISE TO SUCH LIABILITY. THE LIMITATIONS OF LIABILITY REFLECT THE ALLOCATION OF RISK BETWEEN THE PARTIES.

(c) **Survival of Limitations.** THE LIMITATIONS SPECIFIED IN THIS SECTION 14 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

#### **15. No Warranties.**

THE MARKETPLACE PROGRAM, THE WALMART.COM SITES, THE WALMART.COM SERVICES, AND THE WALMART.COM TOOLS ARE PROVIDED ON AN "AS IS" BASIS. NEITHER WALMART.COM NOR ITS AFFILIATES MAKE ANY REPRESENTATIONS OR WARRANTIES OF ANY KIND, EXPRESS OR IMPLIED, INCLUDING WITHOUT LIMITATION: (a) THE IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, TITLE, AND NON-INFRINGEMENT; (b) THAT THE MARKETPLACE PROGRAM, THE WALMART.COM SITES, THE WALMART.COM SERVICES, OR THE WALMART.COM TOOLS WILL MEET YOUR REQUIREMENTS, WILL ALWAYS BE AVAILABLE, ACCESSIBLE, UNINTERRUPTED, TIMELY, SECURE, OR OPERATE WITHOUT ERROR; AND (c) ANY IMPLIED WARRANTY ARISING FROM COURSE OF DEALING OR USAGE OF TRADE. TO THE FULL EXTENT PERMISSIBLE UNDER APPLICABLE LAW, WALMART.COM AND ITS AFFILIATES DISCLAIM ANY AND ALL SUCH WARRANTIES

#### **16. Miscellaneous**

(a) **Integrated Agreement.** This Agreement (and all linked Retailer Policies, Required Product Content, Customer Service Escalations, System Service Level, Order and Customer Service Level, Prohibited Products, Retailer Marketplace Privacy Policy Guidelines, Tax Policies, and Information Security Addendum), which are incorporated by reference into this Agreement) constitutes the complete integrated agreement between the Parties concerning the subject matter of this Agreement. All prior and contemporaneous agreements, understandings, negotiations or representations, whether

oral or in writing, relating to the subject matter of this Agreement are superseded in their entirety by this Agreement. To the extent you are already a party to an agreement with Walmart.com regarding your participation as a retailer in the Walmart.com Marketplace Program, the terms and conditions of that agreement are hereby terminated and replaced in their entirety with the terms and conditions of this Agreement but you will continue to comply with all your surviving obligations under that agreement.

(b) **Responsibility for Affiliates and Agents.** You will be responsible for any actions taken by your affiliates, agents, or other third parties on your behalf in connection with this Agreement.

(c) **Independent Contractors.** You and Walmart.com are acting hereunder as independent contractors. No agency, partnership, joint venture, employee-employer or franchiser-franchisee relationship is intended or created by this Agreement.

(d) **Governing Law.** This Agreement is governed by and will be construed in accordance with the laws of the State of California without regard to its principles of conflicts of law. You agree to exclusive jurisdiction of the federal and state courts located in Santa Clara County, California, and waive any jurisdictional, venue or inconvenient forum objections to such courts.

(e) **Assignment.** You may not assign this Agreement or any of your rights or obligations hereunder without Walmart.com's prior written consent.

(f) **Ongoing Warranties.** Except as otherwise expressly provided herein, the representations and warranties made in this Agreement are continuous in nature and will be deemed to have been given by Retailer at the execution of this Agreement and each stage of performance of this Agreement.

(g) **Publicity.** You will not use the name, logo, trademarks or trade names of Walmart.com or any of their affiliates or otherwise, directly or indirectly, refer to Walmart.com or any of its affiliates in any publicity release, promotional material, customer or partner list, advertising, marketing or business-generating effort, whether written or oral, without the prior written consent of Walmart.com.

(h) **Confidentiality.** You may have entered a separate confidentiality agreement with Walmart. This Agreement does not limit your obligations under that agreement. In addition, you will treat as confidential, and may not disclose to any third party, any information or communication from, on behalf of, or with Walmart.com regarding your compliance with this Agreement.

(i) **Severability.** In the event that any provision of this Agreement is determined by a court of competent jurisdiction to be illegal, invalid or otherwise unenforceable, such provision (or part thereof) shall be enforced to the extent possible consistent with the stated intention of the parties, or, if incapable of such enforcement, shall be deemed to be deleted from this Agreement, while the remainder of this Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

(j) **Waiver.** The waiver by either party of a breach of or a default under any provision of this Agreement shall not be effective unless in writing and shall not be construed as a waiver of any subsequent breach of or default under the same or any other provision of this Agreement, nor shall any delay or omission on the part of either party to exercise or avail itself of any right or remedy that it has or may have hereunder operate as a waiver of any right or remedy.

## REQUIRED PRODUCT CONTENT

### Required Item Data Elements

The table below outlines the core required data elements that Retailer shall include for each Product through the Partner Tool, which Walmart.com may update from time to time by providing Retailer with notice pursuant to the Standard Terms and Conditions or posting the updates on the Partner Tool. The core data elements are applicable to all types of items. However, some data elements may be conditionally required as set forth below. Retailer shall also provide additional data elements required for items in specific categories upon Walmart.com's written request. Base variant items and associated item relationships will conditionally require additional data elements as set forth in the Partner Tool.

Retailer shall also provide Walmart.com with all warnings or disclaimers required to be posted with respect to the Products and Retailer will notify Walmart.com in writing of all such requirements for its Products regardless of whether Retailer is then capable of entering such information through the Partner Tool. Any information provided by Walmart.com to Retailer, including without limitation, in this Agreement or through any Partner Tool, regarding product safety Laws and compliance with requirements thereunder is provided for informational purposes only and Walmart.com makes no representation that such information is accurate or complete and Walmart.com is under no requirement to provide or update such information.

Data Element	Required or Conditionally Required	Description
Product Name	Required	<ul style="list-style-type: none"> <li>The short title for the product to be displayed on the product details page.</li> </ul>
Product Long Description	Required	<ul style="list-style-type: none"> <li>A text description of the product to be displayed on the product details page.</li> </ul>
Product Short Description	Required	<ul style="list-style-type: none"> <li>Brief descriptive text to be displayed in the search results.</li> </ul>
Primary Product Image	Required	<ul style="list-style-type: none"> <li>The URL of the primary image.</li> <li>The image in the first position (image 1) will be considered the main/default image to be displayed on the product details page. All other images will be considered alternate view (AV) images.</li> </ul>
End Date	Required	<ul style="list-style-type: none"> <li>Indicates the date when Retailer's item is no longer available for sale on the site.</li> </ul>
Manufacturer Name	Required	<ul style="list-style-type: none"> <li>The Walmart.com Manufacturer ID for the corresponding Manufacturer of the product.</li> </ul>
Partner Item ID	Required	<ul style="list-style-type: none"> <li>Retailer's unique item identifier.</li> </ul>
Item Price	Required	<ul style="list-style-type: none"> <li>The listing price of the item.</li> </ul>
Product Tax Code	Required	<ul style="list-style-type: none"> <li>Retailer will map its items to the Walmart.com tax codes using the list of possible tax codes as indicated in the tax code guide.</li> </ul>
Origin of Components	Required	<ul style="list-style-type: none"> <li>Location where the item components were manufactured to be displayed on the product details page as a name-value pair.</li> </ul>
Must Ship Alone	Required	<ul style="list-style-type: none"> <li>Indicates if the item must ship alone.</li> </ul>

<b>Data Element</b>	<b>Required or Conditionally Required</b>	<b>Description</b>
Availability Code	Required	<ul style="list-style-type: none"> <li>Indicates availability status of item (Active, Always Available, Pre-Order, Not Available).</li> </ul>
Small Parts Warning Code	Conditionally Required	<ul style="list-style-type: none"> <li>This value is required to comply with the Consumer Product Safety Improvement Act (i.e., requiring warnings for items that contain small parts, balls and/or balloons, etc.).</li> </ul>
Composite Wood Warning Code	Conditionally Required	<ul style="list-style-type: none"> <li>This value is required to comply with California Air Resource Board's (CARB) regulations.</li> <li>The phrase composite wood includes Hardwood Plywood-Veneer Core, Hardwood Plywood-Composite Core, Particleboard, and Medium Density Fiberboard (MDF).</li> </ul>
GTIN	Conditionally Required	<ul style="list-style-type: none"> <li>The Global Trade Identification number.</li> <li>If Retailer has a UPC instead of a GTIN, the UPC should be converted to a GTIN.</li> <li>Walmart.com requires GTIN for the majority of categories, while this value is optional for some categories.</li> </ul>
Brand	Conditionally Required	<ul style="list-style-type: none"> <li>The brand of the product. In some cases the brand might be the same as the manufacturer.</li> </ul>
Manufacturer Item Number	Conditionally Required	<ul style="list-style-type: none"> <li>The manufacturer's item identifier.</li> <li>This value is required if the GTIN is not provided.</li> </ul>
Shipping Weight	Conditionally Required	<ul style="list-style-type: none"> <li>The billable weight of the product when packaged to ship.</li> <li>This value is required if Retailer utilizes weight-based shipping and should be exact.</li> </ul>
Warranty Length	Conditionally Required	<ul style="list-style-type: none"> <li>The length of time for the warranty (e.g., 90 days; 1 year).</li> <li>This value is required for some categories, as indicated in the XSD.</li> </ul>
Supplier Warranty	Conditionally Required	<ul style="list-style-type: none"> <li>The terms of the supplier warranty.</li> <li>This value is required for some categories, as indicated in the XSD.</li> </ul>
Certified Item	Conditionally Required	<ul style="list-style-type: none"> <li>Indicates if the item is certified.</li> <li>This value is only applicable to specified item types (e.g., Jewelry).</li> </ul>
On Hand Quantity	Conditionally Required	<ul style="list-style-type: none"> <li>Item quantity available to sell at Walmart.com.</li> </ul>

Data Element	Required or Conditionally Required	Description
Street Date	Conditionally Required	<ul style="list-style-type: none"> <li>The date the item can be shipped from Retailer (if different from Start Date; for Pre-Orders).</li> </ul>
General Certification of Conformity (GCC)	Conditionally Required	<ul style="list-style-type: none"> <li>This General Certification of Conformity (“GCC”) field indicates Retailer’s compliance with certain provisions of the Consumer Product Safety Improvement Act of 2008.</li> <li>Retailer must indicate if a GCC is required for each item under applicable law.</li> <li>Additionally, Retailer is required to obtain copies of the GCC from its suppliers or manufacturers for all items for which a GCC is required.</li> </ul>

**REFERRAL FEE PERCENTAGES**

Walmart.com shall determine the applicable Referral Fee Percentage for each Product based on such Product's categorization.

<b>Product Category</b>	<b>Referral Fee Percentage</b>
Apparel & Accessories	15%
Automotive & Powersports	12%
Baby	15%
Beauty	15%
Books	15%
Camera & Photo	8%
Cell Phones	8%
Consumer Electronics	8%
Electronics Accessories	15%
Furniture & Decor	15%
Gourmet Food	15%
Grocery	15%
Health & Personal Care	15%
Home & Garden	15%
Industrial & Scientific	12%
Jewelry	20%
Kitchen	15%
Luggage & Travel Accessories	15%
Major Appliances	8%
Music	15%
Musical Instruments	12%
Office Products	15%
Outdoors	15%
Personal Computers	6%
Pet Supplies	15%
Shoes, Handbags & Sunglasses	15%
Software & Computer Video Games	15%
Sporting Goods	15%
Tires & Wheels	10%
Tools & Home Improvement	12%
Toys & Games	15%
Video & DVD	15%
Video Game Consoles	8%
Video Games	15%
Watches	15%
Everything Else	15%

## **CUSTOMER SERVICE ESCALATIONS**

### **HOW CAN A CUSTOMER SUBMIT AN ESCALATION REQUEST TO WALMART.COM?**

Customers can submit a customer service escalation request for a Marketplace transaction (“**CS Escalation Request**”) via the “Help” section of the Walmart.com Site. The “Help” section will include the Walmart Marketplace Program Customer Service Policy as well as instructions and a web form for filing a request.

### **WHEN CAN A CUSTOMER SUBMIT A CS ESCALATION REQUEST TO WALMART.COM?**

Walmart.com expects customers to work directly with Retailer for any issues that may arise prior to or after delivery of any Products. However, in situations where a customer feels he or she has not been adequately assisted by Retailer, the customer can submit a CS Escalation Request to Walmart.com’s Customer Service Department.

1. A customer can submit a CS Escalation Request during the 60-day period commencing seven (7) days following the maximum Estimated Delivery Date set forth in the customer’s Order confirmation email for the Product(s) at issue.
2. A customer may not submit more than five (5) lifetime CS Escalation Requests for Products purchased through Walmart.com’s Marketplace Program.

### **WHAT PURCHASES ARE COVERED UNDER THE WALMART MARKETPLACE CUSTOMER SERVICE POLICY?**

The Walmart Marketplace Customer Service Policy covers Products purchased from the Walmart.com Site that meet the following criteria:

- Customer did not receive one or more Products from an Order;
- Product(s) received by Customer are materially different from what was shown on the Walmart.com Site, including without limitation, for the reasons set forth below. Please note that this escalation criteria does not extend to cases where a Customer is simply disappointed with a Product. Walmart.com will determine whether a Product received by a Customer is “materially different” at its sole discretion.
  - Damaged Product
  - Defective Product
  - Wrong version / edition
  - Product condition/details not as described during purchase
  - Wrong Product delivered
  - Missing parts / components
  - Product was returned per Retailer’s return instructions but no refund or replacement was received by Customer.

### **HOW WILL WALMART.COM PROCESS A CS ESCALATION REQUEST?**

Walmart.com will process a CS Escalation Request only if the Customer has had at least one prior contact with Retailer regarding Customer’s issues with the Product prior to escalating to Walmart.com. Further, this contact should have occurred within Retailer’s refund / return window. Walmart.com will rely solely on the Customer’s representation that he or she has had at least one prior contact with Retailer during Retailer’s refund / return window to determine if it will process the CS Escalation Request. If these conditions are not met, Walmart.com will direct the Customer to contact Retailer for resolution and any open CS Escalation Request will be closed without any further action from Walmart.com. The customer service escalation process is set forth in more details as follows:



1. Once a CS Escalation Request is submitted to Walmart.com by the Customer via the online form, all relevant details will be sent to Retailer via email and/or via post on the Partner Tool.
2. Retailer will have seven (7) days to respond to the CS Escalation Request.
3. If Retailer responds to the CS Escalation Request within the allotted seven (7) day period then a select group of Walmart.com customer service agents will evaluate the action taken for completeness and close the CS Escalation Request. Walmart.com prefers that Retailer assist the Customer directly and Walmart.com will close the CS Escalation Request once Retailer has resolved the issue and no further action will be taken by Walmart.com.
4. If Retailer fails to respond to the CS Escalation Request within the allotted seven (7) day period then Walmart.com will resolve the issue as appropriate using internal guidelines. In such cases, Walmart.com reserves the right to deduct from Retailer payables any compensation given to the Customer up to 100% of the value of the Order including tax, shipping, gift wrap and any other value-added-services that were included in the Order.

## SYSTEM SERVICE LEVEL AGREEMENT

Retailer shall maintain compliance with the following System Service Level Agreement in connection with Retailer's systems that impact the Walmart.com systems (including without limitation, the Walmart.com Site) or the Marketplace Program (including without limitation, systems related to the delivery of Content (including without limitation, through a Service Provider) to Walmart.com).

1. Uptime. Retailer systems shall ensure uptime and availability of 99.0% year round and 99.9% from November 1<sup>st</sup> – January 10<sup>th</sup> (the "**Holiday Freeze Period**") Retailer systems (defined as one or more connected or unconnected computers, peripheral devices, website(s) software, data, program communications, facilities, and computer networks) 24 hours a day, 7 days a week 365 days a year.
2. Scalability. At least once a year Walmart.com shall provide Retailer with the current year's peak capacity numbers for orders per hour. Retailer systems shall support at least 35% above projected peak capacity. This capacity should be over and above any other capacity requirements for other systems or customers.
3. Holiday Freeze Restrictions. In order to minimize any risk of an unscheduled outage that disrupts customers and sales during the busiest time of year, Walmart.com imposes a 'freeze' period on system changes. Retailers are NOT to make any changes to their systems that could affect the Walmart.com systems (including without limitation, the Walmart.com Site) or the Marketplace Program without prior written approval from Walmart.com.
4. All planned maintenance, security patches, system upgrades, IP address changes, etc. must be completed *prior to November 1<sup>st</sup>*. No changes will be made on the Walmart.com systems (including without limitation, the Walmart.com Site) during the Holiday Freeze Period.
5. Scheduled Maintenance and Unscheduled Outages. Scheduled maintenance requires at least five (5) days prior written notice, as outlined in Appendix B. Unscheduled outages need to comply with Uptime requirements (set forth in Section 1 above) and be reported within 5 working days using the COE form attached Appendix A.
6. Redundancy. Using economically viable practices, provide system redundancy for any key single point of failure such as main server, database, and networking.
7. Files Transfer. Files will be sent using XML.
8. System Management. Retailer shall employ basic system monitoring and control procedures to ensure uptime compliance.
9. Backup. Retailer is responsible for making a complete backup of the system weekly, with incremental backups daily.
10. Continuity Management. Retailer shall have an adequately tested continuity plan in place which identifies critical IT resources in case of a disaster within or around the geographic location of Retailer's main IT source, allowing a return to functionality within twenty-four (24) hours.



Appendix A  
to System Level Service Agreement  
Correction of Error

**TO:**

**FROM:**

**SUBJECT:**

**DATE:**

<b>Issue</b>	
<b>Impact</b>	
<b>Action Log</b>	
<b>Root Cause</b>	
<b>Repeating Problem</b>	
<b>Action for Resolution</b>	
<b>Immediate Action Items</b>	
<b>Future Enhancements for Prevention</b>	

**Appendix B**  
**System Level Service Agreement**

**Walmart.com Notification Procedures**

**Scheduled Maintenance**

- 1.) Walmart.com requires at least five (5) days prior written notice of any scheduled outage to the Retailer's systems. Please include the exact nature and reason for the maintenance and any specific instructions. For back end file processing, our system requires that Walmart.com turn off file processing *prior to the outage*. This will avoid the necessity of manually resending files once connectivity is restored.
- 2.) Scheduled maintenance should be performed during low traffic hours. Walmart.com prefers to schedule maintenance for late evening weekdays Pacific time, or at a minimum after 6:00 p.m. or weekends.
- 3.) **Immediately prior to actually taking the server down**, please call or email **SiteOps (650-837-5555, SiteOps@walmart.com)** to state that the maintenance is about to begin, and the anticipated length of the outage. It is at this point that SiteOps will suspend outbound file processing.
- 4.) Upon completion of the maintenance, please call or email SiteOps again to let them know file transfer can resume.
- 5.) Note: Walmart.com will not turn on file transfer to you until Walmart.com receives this notification from you.

**Holiday Freeze Period November 1 – January 10**

- 6.) **Retailer is NOT to make any changes to its systems that could impact the Walmart.com systems (including without limitation, the Walmart.com Site) or the Marketplace Program without prior written approval from Walmart.com.** In order to minimize any risk of an unscheduled outage that disrupts customers and sales during the busiest time of year, Walmart.com imposes a 'freeze' period on system changes. All planned maintenance, security patches, system upgrades, IP address changes, etc. should be completed *prior to November 1st*. No changes will be made to the Walmart.com system (including without limitation, the Walmart.com Site) during this the Holiday Freeze Period.
- 7.) Copy your primary business contact on ALL communications.

**Unscheduled Outage**

- 1.) In the event of an unscheduled outage, immediate notification to SiteOps (650-837-5555) is required. Please describe the details of the outage as available, the portion of the system affected, and an estimate of when you expect to be back in operation.
- 2.) If the outage persists for more than two (2) hours, please call or email with a status report every two (2) hours until connectivity is restored.
- 3.) When connectivity is restored, please call SiteOps immediately, so Walmart.com can resume outbound file processing.
- 4.) Walmart.com procedure requires that Walmart.com open a Remedy ticket for tracking purposes and notify Walmart.com personnel of the outage. Upon restoration of service, please call or email SiteOps so Walmart.com can turn on Outbound file processing.
- 5.) Walmart.com requires a COE [Correction of Error - Appendix A] which describes the event that occurred, why it occurred, and what step you plan to take to prevent a similar event in the future.
- 6.) Upon receipt of the COE document, the Remedy ticket will be closed.
- 7.) Copy your primary business contact on ALL communications.

Contact Info:

SiteOps [24/7]      SiteOps@walmart.com, 650-837-5555

**IP Address Changes**

- 1.) Like all scheduled changes, an IP address change requires prior written notification and coordination with SiteOps. Please contact the office with your request. Upon validation that the correct IP addresses have been submitted, Walmart.com will process the change, which requires both Security and Change Control approval. If a DNS change is also required, please indicate. Only hard coded IP addresses are allowed in the firewall. Walmart.com does not allow URLs.

- 2.) Once the IP address has been added to the appropriate Walmart.com firewall, Walmart.com will contact you to test and validate connectivity.
- 3.) You should plan a week or more in advance for these changes. ***Again, no IP address changes are allowed during the Holiday Freeze Period, so plan accordingly.***

### **System Upgrades**

- 1.) System upgrades need to be coordinated carefully with Walmart.com. Changes include, but are not limited to, facilities moves, new IT outsource partners, software changes, such as SAP or changes from Unix to Linux or network providers. System upgrades also include new hardware architecture being added for system redundancy or disaster recovery. Whatever the reason for the change, please notify your account team and SiteOps well in advance.
- 2.) Share your annual system upgrade plans with your primary business contact and SiteOps.
- 3.) Walmart.com maintains a full test environment, and engineering staff is available to help test. Please contact SiteOps to discuss the type of change you are making. Walmart.com will arrange for the proper resources to test these changes. All changes must be tested in the Test environment and verified, ***prior to*** making any changes to Production.
- 4.) If a change appears not to require a scheduled outage, but can potentially affect file flow, please use the contact procedures to validate the change with Walmart.com. That way, changes can be validated immediately, rather than waiting for problems to arise.

## ORDER AND CUSTOMER SERVICE LEVEL AGREEMENT

Walmart.com is committed to customer service. Retailers participating in the Marketplace Program will endeavor to meet the following service levels:

- (a) Retailer will maintain an On-Time Ship Standard of at least 99%.
- (b) Retailer will accurately ship the correct Product to the correct Customer at a rate of 99.5% of all Products shipped.
- (c) Retailer will maintain inventory to fulfill Customer Orders that result in a cancel rate (excluding Customer requested cancellations) of 1.5% or less;
- (d) Returns due to damaged or defective Products shall not exceed 3% of Sales Proceeds for Products sold on the Walmart.com Site.
- (e) Retailer shall limit emergency updates related to product information through any Partner Tool to a rate no greater than .03% of its entire SKU count in Walmart.com's catalog per month; provided however, that Walmart.com makes no guarantee that all requests will be granted. Walmart.com will assess each emergency request on a case by case basis and make updates in situations Walmart.com deems critical.
- (f) Ninety-day Seller ratings shall, on average, remain above a seller rating of 90% positive.
- (g) The number of customer service escalations received through Walmart.com's escalation guidelines, as set forth in Customer Service Escalations, shall not exceed 0.5% of Orders.
- (h) Retailer will within one (1) hour of receipt on a 24/7 basis, confirm every Order file received by Walmart.com.
- (i) Retailer will, within four (4) hours of receipt on a 24/7 basis, confirm every order line within every Order file received by Walmart.com.
- (j) Retailer will provide Walmart.com with electronic notice confirming shipment of each Product shipped and the corresponding shipment tracking information (if available) within four (4) hours of the Product/Order actually shipping so that Walmart.com may charge the Customer and allow the Customer to track shipment of Products.
- (k) Retailer will send a refund request to Walmart.com through the data feed specified by Walmart.com within 24 hours of receiving a Customer refund or adjustment request, unless Retailer has refused to accept a Product for return for any reason.
- (l) Retailer shall answer at least 60% of all Customer calls within sixty (60) seconds of the end of Retailer's customer service interactive voice response (the "IVR"). For purposes of clarification, time spent by the Customer on hold waiting for a customer service representative shall not be considered part of the IVR and shall be included as part of the sixty-second period described above.
- (m) No more than four percent (4%) of all Customer calls received by Retailer shall be Abandoned Calls. "**Abandoned Calls**" means the number of Customer calls offered to Retailer's customer service representatives after the IVR ends, less the number of calls picked up and completed by Retailer's customer service representatives; provided that if a Customer hangs up before the Customer leaves the IVR, the call shall not be considered an Abandoned Call. For purposes of clarification, if a Customer hangs up after leaving the IVR and while on hold waiting for a customer service representative, such call shall be considered an Abandoned Call;
- (n) Ninety percent (90%) of emails received from Customers shall be answered by Retailer within twenty four (24) hours of receipt.

Walmart.com may, at its discretion, work with a Retailer to remedy any failure of a service level or performance issue under this Service Level Agreement; provided, however, that no waiver by Walmart.com of any provision of this Service Level Agreement may be deemed or constitute a waiver of any provision of this Agreement, whether or not similar, nor may the waiver constitute a continuing waiver by Walmart.com unless otherwise expressly so provided in writing. The failure of Walmart.com to require at any time performance by Retailer of any of the

provisions herein, may in no way be construed to be a present or future waiver of provisions or in any way affect the ability of Walmart.com to enforce each and every provision after such event.

<h2>Prohibited Products</h2> <h3>Walmart Marketplace</h3>	
Academic Software 1.1	<ul style="list-style-type: none"> <li>• Beta codes</li> <li>• Beta keys</li> <li>• Beta software</li> <li>• OEM software</li> <li>• Recovery software (bundled or stand-alone)</li> </ul>
Alcohol 1.2	<ul style="list-style-type: none"> <li>• Alcoholic beverages or products of any kind, including powdered alcohol</li> <li>• Collectible alcohol</li> <li>• Empty collectible alcoholic container not identified as empty in the description</li> <li>• Non-alcoholic wine and beer</li> </ul>
Animals 1.3	<ul style="list-style-type: none"> <li>• Animal vaccines</li> <li>• Animal organs or animal corpses that contain organs</li> <li>• Alaskan Native items with anything from a bear</li> <li>• Bear traps, steel jaw leg-hold traps and similar items</li> <li>• Ivory, manufactured items with more than 5% of actual ivory, bones from animals that produce ivory</li> <li>• Items made from marine mammals</li> <li>• Live animals, insects, and other wildlife</li> <li>• Native American items with feather(s) or other parts of protected birds</li> <li>• Parts or products from endangered or threatened species such as bears, mountain lions, cats, dogs, whales, sharks, dolphins, or porpoises</li> <li>• Products prohibited from sale under the Migratory Bird Treaty Act of 1918</li> </ul>
Art 1.4	<ul style="list-style-type: none"> <li>• Unauthorized copies or reproductions of artwork that violate any copyright or trademark</li> </ul>
Artifacts 1.5	<ul style="list-style-type: none"> <li>• Artifacts</li> <li>• Fossils</li> <li>• Geological formations</li> <li>• Relics</li> <li>• Remains</li> <li>• Sacred and tribal items</li> </ul>
Auto 1.6	<ul style="list-style-type: none"> <li>• Drivers licenses and other government-issued ID documents</li> <li>• Jammers of any kind, including cell, GPS, radar</li> <li>• Motorized vehicles that require registration</li> <li>• Oxygen sensor simulators</li> <li>• Police cameras or other detection sources</li> <li>• Products designed to affect traffic signals or block detection by red light cameras</li> <li>• Products intended to bypass emission control devices or override malfunction indicators</li> <li>• Toll booth systems</li> <li>• Vehicle Identification Number plates</li> <li>• Products intended to conceal or obscure a license plate</li> </ul>
Collectibles 1.7	<ul style="list-style-type: none"> <li>• Products or compilations using unauthorized photos</li> <li>• Autographs, signatures, and unauthorized reproductions of items that violate another's trademarks or copyrights</li> </ul>
Computer/Game Console 1.8	<ul style="list-style-type: none"> <li>• Any boot disk, card, emulator, or loader</li> <li>• Hardware, software, or books that enable the circumvention of copy-protected digital products</li> </ul>



	<ul style="list-style-type: none"> <li>• Any device(s) that replace existing technology in a video game or game console</li> <li>• Import converters</li> <li>• Modified game consoles and games</li> </ul>
Cosmetics 1.9	<ul style="list-style-type: none"> <li>• Any cosmetic products that require a prescription or a medical professional's supervision or direction for their use</li> <li>• Any opened and used products</li> <li>• Any products with tampered packaging</li> <li>• Any products that don't comply with FDA requirements including labeling</li> <li>• Expired products</li> <li>• Products containing controlled substances</li> <li>• Testers</li> </ul>
Currency 1.10	<ul style="list-style-type: none"> <li>• Bullion</li> <li>• Counterfeit coins, bank notes, bonds, money orders, securities, stamps, and equipment use to make those items</li> <li>• Securities, credit, notes, liens, portions of ongoing business, insurance, non-cancelled collectible stock certificates</li> <li>• State or federal assistance benefits</li> <li>• Prepaid access products that provide access to funds, such as physical or digital gift cards</li> </ul>
Digital Goods 1.11	<ul style="list-style-type: none"> <li>• All digital products, including, but not limited to, currency, eBooks, games, movies, songs</li> </ul>
Drugs & Medical Devices 1.12	<ul style="list-style-type: none"> <li>• Controlled substances</li> <li>• Drug paraphernalia</li> <li>• Illegal drugs and narcotics</li> <li>• "List I" chemicals or their derivatives as designated by the Drug Enforcement Administration (DEA)</li> <li>• Products that are subject to regulatory action or criminal enforcement</li> <li>• Drugs, devices, or other products that require prescription or medical professional's supervision or direction for their use</li> <li>• Products that do not have the required regulatory approvals</li> <li>• Products that have been recalled</li> <li>• Products that contain deer antler velvet or ingredients derived from sharks, whales, dolphins, or porpoises</li> <li>• Products that simulate the effects of any illegal drug</li> <li>• Syringes with and without needles</li> <li>• Veterinary drugs and devices</li> </ul>
Food 1.13	<ul style="list-style-type: none"> <li>• Foods deemed unsafe or adulterated (e.g., recalled food items)</li> <li>• Expired food</li> <li>• Foods that contain drug claims</li> <li>• Infant formula</li> <li>• Fresh food</li> <li>• Non-shelf stable food that requires refrigeration</li> </ul>
Funeral 1.14	<ul style="list-style-type: none"> <li>• Any funeral items, including caskets, funeral urns and grave markers</li> </ul>
Hazardous 1.15	<ul style="list-style-type: none"> <li>• Any chemical substance or compound that is intended for commercial, industrial, or professional use only and is not available for general consumer purchase</li> <li>• Products prohibited from sale by the EPA or other regulatory agency due to its hazardous status</li> <li>• Explosives</li> <li>• Fully regulated items</li> <li>• Radioactive or contaminated material</li> </ul>
Illegal 1.16	<ul style="list-style-type: none"> <li>• Any products encouraging or enabling illegal activity</li> </ul>

	<ul style="list-style-type: none"> <li>• Any products that violate applicable laws</li> <li>• Any products that contain viruses, trojan horses, spyware or malicious code</li> <li>• Stolen or counterfeit products</li> </ul>
Infringing Products 1.17	<ul style="list-style-type: none"> <li>• Products that violate or infringe upon any intellectual property right or other third party right</li> </ul>
Jewelry 1.18	<ul style="list-style-type: none"> <li>• Jewelry that does not comply with applicable laws or regulations</li> <li>• Jewelry containing clarity-enhanced white diamonds or diamonds that do not comply with the Kimberly Process Certification</li> <li>• Loose gemstones</li> <li>• Jewelry that contains conflict minerals</li> </ul>
Offensive 1.19	<ul style="list-style-type: none"> <li>• Products that display explicit nudity or vulgar language</li> <li>• Products that contain obscene material or pornography</li> <li>• Products that either portray, glorify or promote in an insensitive way: <ul style="list-style-type: none"> <li>○ animal cruelty</li> <li>○ any historical or news events</li> <li>○ criminal or illegal activity</li> <li>○ derogatory stereotyping based on race, ethnicity, gender, sexual orientation, religion, or nationality</li> <li>○ hatred</li> <li>○ intolerance</li> <li>○ natural or man-made disaster(s)</li> <li>○ tragedy</li> <li>○ violence</li> </ul> </li> <li>• Products marketed to or targeted at kids or teenagers that are age-inappropriate</li> </ul>
Plants, Plant Products, Seeds 1.20	<ul style="list-style-type: none"> <li>• Illegal plants, plant products, or seeds</li> <li>• Plants, plant products, or seeds subject to federal, state, or local government quarantine or other restriction</li> <li>• Plants, plant products, or seeds that are considered to be a controlled substance</li> </ul>
Recalled Items 1.21	<ul style="list-style-type: none"> <li>• Any product that has been or currently is subject to a recall</li> </ul>
Restricted 1.22	<ul style="list-style-type: none"> <li>• Any product that is age-restricted by law</li> <li>• Any products that in Walmart's discretion are not appropriate for sale including, but not limited to: <ul style="list-style-type: none"> <li>○ adult products</li> <li>○ gambling products</li> <li>○ government-issued documents and products</li> <li>○ military and police related items</li> <li>○ novelty lighters</li> <li>○ refurbished products that do not comply with Walmart standards</li> <li>○ specific products or brand names</li> <li>○ surveillance device(s) and equipment</li> </ul> </li> <li>• Any product that cannot be sold in all U.S. states under applicable laws</li> </ul>
Tickets 1.23	<ul style="list-style-type: none"> <li>• Tickets (digital or physical) to events of any kind.</li> </ul>
Tobacco 1.24	<ul style="list-style-type: none"> <li>• Cigars</li> <li>• Cigarettes</li> <li>• E-cigarettes</li> <li>• Other tobacco/nicotine products including collectible tobacco and collectible tobacco products</li> </ul>
Weapons 1.25	<ul style="list-style-type: none"> <li>• Airsoft, air guns, BB guns, pellet guns, paintball guns, replica/imitation guns, or firearms of any type</li> <li>• Ammunition of any type (including pellet, BB, air gun, paintball, sling shot ammunition)</li> </ul>

	<ul style="list-style-type: none"> <li>• All varieties of clips and magazines</li> <li>• Axes and machetes marketed as weapons that are not purely ornament and are not designed for home improvement, hunting, camping, or other similar recreational use</li> <li>• Badges of any kind, whether real or reproductions, including concealed weapons permit, government agency or department, TSA, private security company, private investigator, special event, and movie prop badges</li> <li>• Badge patches</li> <li>• Balisong, butterfly, gravity, automatic, out the front, paratrooper, push dagger, switchblade (and replica/imitation switchblades), stiletto, shobi-zue or slasher knives, boot knives or any knives that are hidden or disguised</li> <li>• Barrel shrouds, forward pistol grips, and threaded barrels for semiautomatic pistols</li> <li>• Bayonets</li> <li>• Brass knuckles, leaded canes or other leaded sticks, nightsticks/billy clubs, nunchuks, saps/blackjacks, kunsari-fundo, sansetsukon, throwing stars</li> <li>• Claws or spikes that attach to the shoe, other clothing item, or any body part</li> <li>• Dart guns</li> <li>• Explosives, Tannerite, fireworks</li> <li>• Firearm frames, receivers, firearm kits, assault weapon parts/accessories/instructions/blueprints (even if they can be used with non-assault weapons)</li> <li>• Grenades and grenade launchers of any type (including airsoft and paintball)</li> <li>• Law enforcement ID cards or credentials</li> <li>• Pepper spray/mace</li> <li>• Pistol conversion kits</li> <li>• Silencers and flash suppressors</li> <li>• Sling shots</li> <li>• Stun batons, tasers, and disguised stun guns</li> <li>• Sword canes and swords that are not purely ornamental and are marketed as ready for use as a weapon</li> <li>• Tear gas</li> <li>• Weapons designed to be concealed</li> </ul>
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## RETAILER MARKETPLACE PRIVACY POLICY GUIDELINES

Retailer shall prepare a separate Retailer Marketplace Privacy Policy for posting on the Walmart.com Site in connection with the Marketplace Program. The Retailer Marketplace Privacy Policy shall not be more than the number of characters accepted through the Partner Tool. If the Retailer Marketplace Privacy Policy exceeds the number of permitted characters, Retailer shall host, support and maintain a dedicated URL that provides customers with access to Retailer's full Retailer Marketplace Privacy Policy through the Walmart.com Site in accordance with specifications provided by Walmart.com. Retailer shall (i) set up the URL through the Partner Tool, (ii) work with Walmart.com to ensure customers have access to such Retailer Marketplace Privacy Policy through such URL, and (iii) comply with the System SLA with respect to uptime of the hosted privacy policy URL. Retailer must include the following information in the Retailer Marketplace Privacy Policy as well as any information required under applicable Law:

1. The specific personally identifiable information and other customer information (collectively, the "**Personal Information**") Retailer receives with respect to Marketplace Customers.
2. How Retailer will use Personal Information of Customers it receives in connection with the Marketplace Program (e.g. to ship orders and to email Customers regarding shipment confirmation or Order cancellation).
3. Who will have access to Customer Personal Information (e.g., contractors for the purpose of fulfilling Customer Orders).
4. In what cases may Personal Information be disclosed to third parties (e.g., as required by law). This section should indicate that Personal Information is shared with Walmart.com and is subject to Walmart.com's Privacy Policy.
5. How Customer may update its Personal Information.
6. Retailer never sells or rents Customer Personal Information to any third party.
7. Retailer will not use Personal Information of Customers received in connection with Marketplace to send marketing communications to Customer or to conduct surveys, contests or sweepstakes.
8. How Retailer protects the Personal Information of Customers.
9. How Retailer protects the privacy of children and meets the standards of the Children's Online Privacy Protection Act (i.e., no collection of PII from children under 13).
10. The date on which Retailer's Marketplace Privacy Policy was last updated and where Customers can direct questions about the Retailer's Marketplace Privacy Policy.

## TAX POLICIES

1. Taxpayer and Seller of Record. Retailer is the taxpayer and vendor/seller/retailer of record and agrees to comply with all applicable tax Law. Retailer shall be solely liable for any tax liabilities, including, without limitation, any penalties or interest. All references to “tax” or “taxes” in this Agreement shall mean all taxes and fees, including without limitation, sales, use and surcharge taxes and all related ancillary taxes and fees, including, without limitation, electronic waste recycling fees.

2. Collection of Tax. Retailer will have the option of requesting that Walmart.com collect tax on Retailer’s behalf. Regardless of Retailer’s choice in this regard, Walmart.com will publish a statement on the Walmart.com Site and/or on every Order confirmation email generally stating that Retailer is the vendor/seller/retailer of record, and is responsible for collection and remittance of any applicable taxes. Retailer will specify through the Partner Tool (a) in which state and local jurisdictions Retailer has a tax remittance obligation and (b) whether Retailer would like Walmart.com to collect tax on Retailer’s behalf. Retailer shall be solely responsible for determining whether it must remit taxes to various governmental agencies. If Retailer does not specify in both the Partner Tool and directly through Walmart.com’s tax software that Walmart.com shall collect taxes on Retailer’s behalf in a specific region, then no taxes will be collected in such region.

3. Tax Codes. If Retailer chooses to have Walmart.com collect tax on its behalf, Retailer will be required to directly access Walmart.com’s tax software to obtain a list of tax codes utilized by the tax software (the “**Tax Codes**”). Retailer will treat the Tax Codes as Confidential Information and will not disclose such Tax Codes to any third party. Retailer will only use the Tax Codes to perform its obligations under this Agreement. Retailer will obtain a password to access Walmart.com’s tax software and Retailer is solely responsible for maintaining the confidentiality and security of such password and for all actions taken in connection with the use of such password.

4. Tax Designations. If Retailer chooses to have Walmart.com collect tax on its behalf: (a) Retailer will assign a product Tax Code (if applicable) or a general tax code to its Products through a Partner Tool and designate shipping and gifting tax codes during setup in the Partner Tool and assign Tax Codes separately directly through Walmart.com’s tax software (collectively, the “**Tax Designations**”) and Walmart.com’s tax software will calculate tax based on these Tax Designations; and (b) Retailer shall provide timely updates to Tax Designations through the Partner Tool and Walmart.com’s tax software. However, no changes to Tax Designations will be effective until Walmart.com posts such updated Tax Designations on the Walmart.com Site. Retailer acknowledges that the Tax Codes calculate city, county and other local taxes based primarily on zip code and that such calculations may result in an over- or under-collection of local taxes from Customers. Retailer is solely responsible for the refunding of over-collected tax to Customers and for payment of under-collected tax to taxing jurisdictions.

5. Tax Reporting. Walmart.com will provide monthly reporting to Retailer of all taxes, if any, collected by Walmart.com on behalf of Retailer which shall include the Customer name, total sale amount, zip code, total tax collected and the combined rate for that zip code. Retailer shall promptly notify Walmart.com in writing (which shall be no later than one (1) business day after Retailer has knowledge or belief of any incorrectly collected taxes) if it believes Walmart.com has incorrectly collected any taxes.

6. Remittance of Taxes. Walmart.com will transfer to Retailer all taxes collected on Retailer’s behalf (as part of the Retailer Share) and Retailer will remit to the proper government agencies all such taxes paid to Retailer by Walmart.com. Walmart.com may, at its discretion and based upon its written request, require Retailer to provide documentation to prove that Retailer has remitted the collected taxes to the appropriate jurisdiction. Walmart.com may terminate Retailer’s access to the Partner Tool and Walmart.com Site if Walmart.com does not receive such documentation on a timely basis. Retailer will be solely responsible for remittance of all taxes required to be paid under all applicable Law to, and the filing of all related documentation with, the proper government agencies.

7. Tax Included in Purchase Price. If Retailer includes any applicable taxes in the purchase price instead of collecting the taxes separately, it shall clearly state in any sales documentation provided to the Customer that such tax has been included in the purchase price. Retailer is liable for any taxes, penalties and interest, including without limitation, if the inclusion of tax in the purchase price violates applicable Law.

**8.** Nexus. If any governmental authority determines that sales, use or other taxes are owed by Walmart.com or Retailer on sales of Products through the Walmart.com Site, or that Retailer has nexus in a state or local jurisdiction, or is otherwise responsible for the collection and remittance or reporting of taxes (and all related penalties and interest) related to the sale of any Products, whether or not as a result of any action or inaction by Walmart.com, Retailer (i) agrees that Retailer shall solely be responsible for payment of such taxes (and all related penalties and interest) and/or reporting of such taxes (if applicable), (ii) agrees that Walmart.com shall have no liability to Retailer or any governmental authority for such taxes or penalties, and (iii) will not seek any reimbursement from Walmart.com for such taxes and related penalties. Retailer will indemnify and hold harmless Walmart.com and its Affiliates and their respective officers, directors, employees and agents for any claims, liabilities, losses, fines, costs and expenses (including reasonable attorneys' fees) arising out of or related to any ruling by any governmental authority that Walmart.com or Retailer has a tax remittance or reporting obligation in any State on account of sales of Products through the Walmart.com Site, whether or not due to any action or inaction by Walmart.com.

**9.** Reimbursement. Retailer shall be solely responsible and liable for reimbursing Customers if Walmart.com calculated tax on the date of purchase, and then on the date the Product is shipped and the Customer is billed, there was no tax applicable to the sale (e.g. if the date of shipment and billing falls on a tax holiday where there is no tax for the sale of such Product).

## INFORMATION SECURITY ADDENDUM

A. Definitions. For the purposes of this Addendum, the terms below have the following meanings whenever capitalized:

“Claims” means all claims, requests, accusations, allegations, assertions, complaints, petitions, demands, suits, actions, proceedings, causes of action, and judgments.

“Costs” means expenses of any kind, including attorneys’ fees, litigation costs, investigatory costs, costs of providing notice to any person or organization in the event of a Data Incident, and costs of providing consumer protection services to any person in the event of a Data Incident, including credit monitoring or identity restoration services.

“Data Incident” means any reasonably suspected or actual unauthorized access to or acquisition, disclosure, use, or loss of Walmart Information (including hard copy records) or breach or compromise of Retailer’s Security Program that presents a potential threat to any Walmart Information or Walmart system.

“ISD” means Walmart’s Information Systems Division.

“Privacy and Security Requirements” means all of the following: (i) all legal requirements (federal, state, local, and international laws, rules and regulations, and governmental requirements) currently in effect and as they become effective, relating in any way to the privacy, confidentiality, integrity, availability, or security of Walmart Information; (ii) all industry standards concerning privacy, data protection, confidentiality, integrity, availability, or security of information, including without limitation, the Payment Card Industry Data Security Standard, and any other similar standards; (iii) all policies, statements, or notices that are provided to Retailer in writing; and (iv) all controls required by the ISD Security Review, including secure coding standards.

“Security Program” means a comprehensive written information security program described below in Section C.

“Security Review” refers to ISD Security’s assessment and evaluation of Retailer’s Security Program and its engagement with Walmart.

“Walmart Information” means the following, regardless of form or the media in which it is maintained, that may be accessed, used, or disclosed to Retailer in connection with or incidental to the performance of services for or on behalf of Walmart or by any other means:

1. Any information relating to an identified or identifiable individual irrespective of whether such individual is a Walmart customer, employee, or other status (including, but not limited to, name, postal address, email address, telephone number, date of birth, Social Security number, driver’s license number, other government-issued identification number, financial account number, credit or debit card number, insurance ID or account number, health or medical information, consumer reports, background checks, biometric data, digital signatures, any code or password that could be used to gain access to financial resources, or any other unique identifier);
2. Non-public business information; and
3. Any information marked “Highly Sensitive” or “Sensitive” or defined as “Confidential” by the Agreement, or information that Retailer should reasonably believe to be confidential.

B. Acknowledgement. Retailer acknowledges that it is solely responsible for the confidentiality and security of Walmart Information in its possession, custody, or control, or for which Retailer is otherwise responsible.

- C. Security Program. Retailer has implemented and shall maintain a Security Program that complies with Privacy and Security Requirements and incorporates industry best practices. Retailer's Security Program includes appropriate administrative, technical, and physical safeguards; assures the confidentiality, availability, integrity, and security of Walmart Information and Walmart systems; and includes at least the following safeguards:
1. Appropriate user authentication controls, including secure methods of assigning, selecting, and storing access credentials, restricting access to active users, and blocking access after a reasonable number of failed authentication attempts.
  2. Secure access controls, including controls that limit access to Walmart Information to individuals that have a demonstrable genuine business need-to-know, supported by appropriate policies, protocols, and controls to facilitate access authorization, establishment, modification, and termination.
  3. Appropriate and timely adjustments to Retailer's Security Program based on: periodic risk assessments; regular comprehensive evaluations (such as third-party assessments) of Retailer's Security Program; monitoring and regular testing of the effectiveness of safeguards; and a review of safeguards at least annually or whenever there is a material change in Retailer's technical environment or business practices that may implicate the confidentiality, availability, integrity, or security of Retailer's information systems.
  4. Appropriate, ongoing training and awareness programs designed to ensure workforce members and others acting on Retailer's behalf are aware of and adhere to Security Program policies, procedures, and protocols.
  5. Monitoring of systems designed to ensure data integrity and prevent loss or unauthorized access to, or acquisition, use, or disclosure of, Walmart Information.
  6. Technical security measures, including firewall protection, antivirus protection, security patch management, logging of access to or use or disclosure of Walmart Information, intrusion detection, and encryption of data in transit and at rest.
  7. Physical facility security measures, including access controls, designed to restrict access to Walmart Information to individuals described in Section C.2.
  8. Logical segmentation of Walmart Information from data of others, but especially any Walmart competitor.
- D. Supervision. Retailer shall exercise necessary and appropriate supervision over its relevant employees and others acting on its behalf to maintain confidentiality, integrity, availability, and security of Walmart Information.
- E. Mobility and Transfer of Data.
1. Walmart Information that is classified by Walmart as Highly Sensitive Data or Sensitive Data shall not be stored on or transported via a laptop, any other mobile device, or any removable storage media, including USB, thumb drives, DVDs, or CDs, unless such devices or media are encrypted using an encryption methodology approved in writing by ISD Security.
  2. All electronic data transfers of Walmart Information classified by Walmart as Highly Sensitive Data or Sensitive Data must be accomplished via secure FTP or other protocol or encryption methodology approved in writing by ISD Security.



3. Any physical removal or transfer of Walmart Information classified by Walmart as Highly Sensitive Data or Sensitive Data from Walmart's or Retailer's facilities shall be conducted only according to controls developed or approved in writing by ISD Security.
4. Walmart Information may not be transferred, stored, or processed outside the country in which Retailer receives it without prior written approval from Walmart, inclusive of transfers to subcontractors or agents, notwithstanding the provisions of Section G.

F. Data Incidents.

1. Retailer agrees to immediately notify Walmart's Emergency Operations Center by phone (479.277.1001) of any Data Incident. While the initial phone notice may be in summary form, a comprehensive written notice should be given within 48 hours to Walmart's Privacy Office, 702 SW 8th Street, Bentonville, AR and its Chief Information Security Officer, 805 Moberly Lane, Bentonville, AR. The notice shall summarize in reasonable detail the nature and scope of the Data Incident (including a description of all Walmart Information affected) and the corrective action already taken or to be taken by Retailer. The notice shall be timely supplemented to the level of detail reasonably requested by Walmart, inclusive of relevant investigative or forensic reports.
2. Retailer shall promptly take all necessary and advisable corrective actions, and shall cooperate fully with Walmart and its designees in all reasonable efforts to investigate the Data Incident, mitigate adverse effects, and prevent recurrence. Such cooperation shall include responding to Walmart's inquiries about the Data Incident in a timely fashion. In the event of a Data Incident, Walmart's point of contact at Retailer will be the contact provided on Retailer's application.
3. The Parties shall collaborate on whether it is necessary or advisable to provide notice of the Data Incident to any person, governmental entity, the media, or other party. The Parties shall collaborate on the content of the notice. Walmart will make the final determination as to whether notice will be provided and to whom, the content of the notice, and which Party will be the signatory to the notice.

G. Third Parties. Retailer may transfer, disclose, or otherwise provide access to Walmart Information (including through use of third party hosting or cloud services) only to the following parties:

1. Any subcontractor or agent that Retailer engaged prior to executing the Agreement if: (i) the subcontractor or agent, including the proposed access to Walmart Information by the subcontractor or agent, was evaluated in a manner substantially similar to a Security Review; (ii) the subcontractor or agent maintains an information security program substantially equivalent to the Security Program required of Retailer by this Addendum; (iii) Retailer has executed an agreement with the subcontractor or agent that is substantially equivalent to this Addendum; and (iv) the subcontractor or agent has a demonstrable genuine business need-to-know for all Walmart Information to which it is provided access.
2. Any subcontractor or agent that Retailer engages following execution of the Agreement if: (i) Walmart is permitted, at its option, to conduct a Security Review to evaluate Retailer's engagement of the subcontractor or agent and security controls implemented by that subcontractor or agent; (ii) the subcontractor or agent maintains an information security program substantially equivalent to the Security Program required of Retailer by this Addendum; (iii) Retailer has executed an agreement with the subcontractor or agent that is substantially equivalent to this Addendum and preserves for Walmart or Retailer the rights available to Walmart pursuant to Sections F and K of this Addendum; (iv) the subcontractor or agent has a demonstrable genuine business need-to-know for all Walmart Information to which it is provided access; and (v) Walmart provides prior written approval to Retailer authorizing the sharing, transfer, disclosure, or access.

3. Any other party that is not a subcontractor or agent only with prior written notice to and prior written approval of Walmart.
- H. Notice of Process. In the event Retailer receives a governmental or other regulatory request for, or legal process requesting, any Walmart Information, Retailer shall immediately notify Walmart's Legal Department in order that Walmart will have the option to defend such action. Retailer shall reasonably cooperate with Walmart in such defense.
- I. Notice of Individual Requests and Complaints. Retailer shall immediately notify Walmart in the event that Retailer receives: (i) requests from individuals relating to Walmart Information, including requests to access or rectify personal information; or (ii) complaints of any kind from individuals relating to the privacy, confidentiality, or security of Walmart Information. Retailer shall not respond to any such request or complaint without Walmart's prior written approval.
- J. Use Restrictions. Unless Walmart provides prior written approval, Retailer shall not use, access, disclose, reconfigure, re-identify, or aggregate Walmart Information, nor permit any of the foregoing, for any purpose other than performing services pursuant to the Agreement, fulfilling the obligations of this Addendum, or as strictly necessary to comply with law.
- K. Security Review and Assessment.
1. ISD Security may conduct a Security Review when determined reasonably required by Walmart.
  2. At Walmart's request, Retailer shall provide Walmart copies of its data privacy and security policies and procedures that apply to Walmart Information. Retailer also may be asked, upon Walmart's reasonable request, to submit written responses to questions regarding its privacy and information security practices that apply to Walmart Information. Retailer shall submit written responses within 10 business days of receipt of Walmart's request.
  3. Retailer shall provide ISD Security with an opportunity to conduct a privacy and security assessment of Retailer's Security Program and systems and procedures. Such assessment may be conducted on-site by Walmart personnel or Walmart's contracted third party assessors or through surveys and interviews, at the option of Walmart. Such assessment may be conducted no more than once per year, or more frequently in the event of any Data Incident. When an on-site assessment will be conducted, Walmart shall provide Retailer with reasonable advance notice of not less than 15 business days, except in the event of a Data Incident or if Walmart has a reasonable basis to believe Retailer may not be in compliance with this Addendum, in which case advance notice shall be not less than 48 hours.
  4. Retailer shall provide Walmart with notice of any findings that are likely to adversely impact Walmart Information or Walmart systems that are identified through any security assessment or review of Retailer's systems or Security Program performed by Retailer or a third party, including vulnerability and penetration assessments. Notice of these findings may be provided in the form of a written summary. Retailer shall keep Walmart timely informed of its remediation efforts to address these findings.
- L. Compliance. Retailer shall comply with all applicable Privacy and Security Requirements.
- M. Security Certification. Retailer shall maintain a level of security certification or assessment consistent with best practices and conducted by a qualified third party reasonably acceptable to Walmart. Such certifications shall be provided to Walmart upon reasonable request.
- N. Indemnification. Retailer shall indemnify, defend, and hold harmless Walmart for and from any Claims, and reimburse Walmart for or bear any Costs, related to any Data Incident or Retailer's noncompliance with this Addendum notwithstanding any allegation that Walmart was negligent or otherwise at fault.

- O. Termination. Walmart may terminate any contract or engagement between the Parties, including the Agreement, in the event: (i) of a Data Incident that Walmart determines is likely to have a substantial adverse impact on Walmart's relationship with its customers or associates or may otherwise substantially harm its reputation; (ii) of a material violation of this Addendum by Retailer, including any violation of Section G; (iii) of any material misrepresentation made in connection with any Security Review, assessment, or other process described in Sections G or K; or (iv) that Retailer or a third party reviewed pursuant to Section G fails to timely or effectively remediate material adverse findings from a Security Review, assessment, or other process described in Sections G or K, as applicable. This Section O in no way limits any termination rights provided under the Agreement.
- P. Secure Return or Disposition; Termination of Access.
1. Retailer shall return or dispose of Walmart Information in its possession, custody, or control: (i) if no longer needed for Walmart's business or legal purposes or upon termination of the Agreement to which this Addendum is appended, whichever is longer; or (ii) upon Walmart's direction which may be given at any time.
  2. Notwithstanding the foregoing, Retailer will be permitted to retain: (i) Walmart Information for a longer period if such retention is strictly necessary to meet Retailer's legal compliance obligations, is done pursuant to Retailer's fully implemented and documented records management program, and is limited to the minimum Walmart Information and minimum retention period needed to meet these obligations; and (ii) backup media containing Walmart Information for so long as is permitted by Retailer's fully implemented and documented records management program, which retention shall not be indefinite and shall not exceed industry standards.
  3. Any disposal of Walmart Information must ensure that Walmart Information is rendered permanently unreadable and unrecoverable.
  4. To the extent Retailer accesses or has contact with Walmart systems, Retailer must ensure that such access is discontinued upon termination of the Agreement.
  5. Upon reasonable notice and if requested by Walmart, Retailer shall provide Walmart with a certification by an officer attesting to Retailer's compliance with this Section P.
- Q. Survival. Section N and Section P.5 will survive termination of the Agreement. The remaining provisions of this Addendum will survive until such time as Retailer has fully complied with the provisions of Section P.
- R. Interpretation. The terms of this Addendum are to be construed to permit compliance with the Parties' legal obligations with respect to Walmart Information. This Addendum supersedes any inconsistent provisions contained in prior oral or written agreements between the Parties, including the Agreement, that are relevant to the subject matter of this Addendum. Notwithstanding the foregoing, provisions in prior agreements between the Parties that impose additional or more stringent obligations than this Addendum with respect to Walmart Information will remain in force. The underlined headings in this Addendum are for convenience only and will not affect the interpretation of this Addendum.