

COMPREHENSIVE WALMART CANADA MARKETPLACE PROGRAM

SELLER AGREEMENT

(Terms and Conditions for Walmart Canada Marketplace Program and Walmart Canada Fulfillment Services)

ARTICLE I: INTRODUCTION

Welcome to the Walmart Canada Marketplace Program.

The terms contained in Article I apply to all Walmart Canada Marketplace Sellers.

This Comprehensive Walmart Canada Marketplace Program Seller Agreement (“**Agreement**”) consists of (1) the Walmart Canada Marketplace Program Agreement described in Article II (“**Walmart Canada Marketplace Agreement**”), (2) the Walmart Canada Fulfillment Services Agreement described in Article III (“**WFS Agreement**”) (if you select to participate in WFS Services (as defined herein)), and (3) all Walmart Canada Marketplace Program policies and guidelines for Sellers and other policies referenced herein (together, the “**Seller Policies**”), which are incorporated by reference.

This Agreement applies to any entity (“**Seller**” or “**you**”) that wants to sell goods or services (“**Products**”) in the Walmart Canada Marketplace through the Walmart.ca site or any Walmart applications (“**Walmart.ca Sites**”), use any order processing, fulfillment, shipping, returns, or other services related to the Walmart Canada Marketplace provided by or for Walmart (“**Walmart.ca Services**”), or use any platform, portal, web service, application, interface, or other tool provided by or for Walmart in connection with the Walmart Canada Marketplace (“**Walmart.ca Tools**”). The Walmart.ca Sites, the Walmart.ca Services and Walmart.ca Tools shall be collectively known as the Walmart.ca Marketplace Program, the Walmart Canada Marketplace, or the Walmart Canada Marketplace Program.

By submitting your application, clicking the “I’ve read and agree to the Terms for Walmart Canada Marketplace and Walmart Canada Fulfillment Services” check box which you are prompted to click or by offering any Products for sale on the Walmart Canada Marketplace, using any of the Walmart.ca Services, or using any of the Walmart.ca Tools, you agree to be bound by all terms and conditions of this Agreement (including the Seller Policies), as this Agreement (including the Seller Policies) may be updated from time to time in accordance with this Agreement. You represent, warrant and covenant that you are registering with the Walmart Canada 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 Canada Marketplace. You further represent, warrant and covenant that you will update all of the information you provide to us in connection with the Walmart Canada Marketplace, Walmart.ca Services and Tools as necessary to ensure that it at all times remains accurate, complete, and valid. You authorize us (and will provide us documentation evidencing your authorization upon our request) to verify your information (including any updated information) from time to time.

Wal-Mart Canada Corp. (“**Walmart**”) may update, supplement or modify this Agreement or the Seller Policies at any time in its sole discretion. The changes will be effective upon posting of such updates on “[Seller Help](#),” which is the primary web-based interface provided to you by Walmart 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 Canada Marketplace, using any of the Walmart.ca Services, or using any of the Walmart.ca Tools

constitutes your acceptance of such changes. If you do not agree to any posted changes, do not continue to use the Walmart Canada Marketplace, the Walmart.ca Services, or the Walmart.ca Tools.

For parties domiciled in or resident of Québec, after receiving and reviewing a copy of this Agreement in French, it is the express wish of the parties that this Agreement and all ancillary and related documents be drafted in English. Pour les parties domiciliées ou résidentes au Québec, après avoir reçu et examiné un exemplaire du présent accord en français, les parties souhaitent expressément que le présent accord et tous les documents annexes et connexes soient rédigés en anglais.

ARTICLE II: WALMART CANADA MARKETPLACE PROGRAM AGREEMENT

The terms contained in Article II apply to all Walmart Canada Marketplace Sellers.

1. Walmart's Role

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

2. General Product Policy

(a) **Product Guidelines.** The Walmart Canada Marketplace Agreement describes certain general obligations regarding Products you may and may not list on the Walmart Canada Marketplace. The [Prohibited Products Policy](#) (the “**Prohibited Products Policy**”) provides more detail regarding Walmart's product requirements. You will not list, market, promote, offer for sale, or sell any Products through the Walmart.ca Sites in violation of this Walmart Canada Marketplace Agreement (including the [Prohibited Products Policy](#)).

(b) **Abiding by the Law.** You will (and you represent, warrant and covenant that you will) comply with all applicable “**Laws**” (meaning all applicable laws, regulations, legal requirements, policies and generally accepted industry standards, legal stipulations, guidelines and self-regulatory principles), including Laws related to minimum age, marketing, advertising, consumer protection, product safety, product testing, marking and labelling (including the requirements for certain information to be in English and French), environmental, pricing and packaging, incident reporting to Health Canada or other regulatory authorities, in connection with this Walmart Canada Marketplace Agreement; your use of the Walmart Canada Marketplace, the Walmart.ca Services, and the Walmart.ca Tools, and your marketing, promotion, offering for sale, or selling any Products through Walmart.

(c) **Canada Only.** You will only offer Products for sale on the Walmart.ca Sites that may legally be sold and shipped in all Canadian provinces and territories. To the extent necessary, Seller will be

responsible for obtaining and maintaining any import permits or registrations and Seller will be the importer of record.

(d) **Legal Right to Sell.** You may sell a Product on Walmart.ca Sites through the Marketplace Program if you have a valid legal right to sell that Product.

(e) **Product Authenticity.** You may only sell Products through the Marketplace Program that are 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, warrant and covenant that you will not) list any Product or Seller Product Content (as defined below) on the Walmart.ca 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 valid legal 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) **Certification.** Upon Walmart’s request, you will promptly provide Walmart with (i) certificates of authenticity (or similar documentation) related to Products, (ii) documentation (e.g. email verifications from the brand owner or supplier) showing that you have a valid legal right to sell the Products through the Walmart.ca Sites, (iii) documentation (e.g. email verifications from applicable rights holders) showing that you are licensed or otherwise have a right to use any Seller Product Content (as defined below), and (iv) documentation (e.g. test reports from an independent testing lab acceptable to Walmart) showing that you are in compliance with the requirements of Section 2(h) hereof.

(g) **Prohibited or Restricted Listings.** Walmart, in its sole discretion, may remove listings or Seller Product Content, or prohibit you or ask you to refrain from listing any Products or providing any Seller Product Content. In addition, Walmart may remove your listings in its sole discretion, including in response to notices of alleged copyright infringement, trademark misappropriation, or other intellectual property claims or if such listing is not compliant with applicable Law or the Walmart Canada Marketplace Agreement. If Walmart requests that you remove Products or Seller Product Content from the Walmart.ca Sites, you will make commercially reasonable efforts to remove the Products or Seller Product Content within 24 hours of such request so that the Products and related Seller Product Content no longer appear on the Walmart.ca Sites. You will not list or include such removed Products or Seller Product Content on the Walmart.ca Sites at any time unless their inclusion is specifically authorized by Walmart in writing.

(h) **Safety, Testing and Certification.** Seller will comply with, and ensure that all Products comply with, all product safety, testing, standards and certification requirements under applicable Law, including without limitation, the Canada Consumer Product Safety Act and the regulations thereunder and any applicable provincial consumer protection legislation. Walmart may, from time to time, request Seller to submit its Product for testing with an independent testing lab acceptable to Walmart. Seller shall complete such testing within the timeframe reasonably requested by Walmart and shall bear all costs and expenses related thereto.

(i) **Refurbished Products.** You agree to and will comply with the [Refurbished/Vintage Items Policy](#). You agree that all Refurbished Products shall be completely “wiped” or sanitized of all data stored in the memory of any such Refurbished Product to ensure that such data is no longer accessible in whole or in part.

3. Seller Product Content and Seller Trademarks

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

4. Required Product Information

(a) **Seller Product Content.** In order to list a product for sale on the Walmart.ca Sites, you must provide all requested Seller Product Content. A list of the data elements required for each Product can be found at [Product Content Policy](#). You must also provide Walmart with all warnings or disclaimers required to be posted with respect to the Products. If the Product fits into a category that is subject to specific product guidelines, you may be required to provide additional Seller Product Content for those types of products. Seller shall ensure the Seller Product Content (including packaging) shall not contain any sexually explicit, defamatory or obscene materials. Additionally, Seller Product Content provided by you to Walmart for the Walmart.ca Sites must be of at least the same level of quality as the highest quality information displayed or used on the Seller Site or any other online sales channel for Seller’s Products and provides users of the Walmart.ca Sites with at least as much product information, images and other content as the information provided on the Seller Site or any other online sales channel for Seller’s Products.

(b) **Inventory Feed.** You will (i) use commercially reasonable efforts to timely provide Walmart 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 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.

(d) **Bilingual Content.** You are responsible for providing a translation of the English content in French content using industry accepted applications or standards and you will transmit content in both English and French per Walmart’s defined parameters. You shall ensure that all content is in compliance

with applicable Laws. Walmart reserves the right to refuse any content if Walmart deems, in its sole discretion that the translation is of a poor or inadequate quality.

5. Referral Fees and Payment

(a) **Customer Payments.** As part of its service to you, Walmart will collect all proceeds from transactions with Customers and will hold such amounts in trust for you subject to the terms herein. Payment of moneys by a Customer to Walmart shall for all purposes constitute payment by the Customer to you. If a Customer makes payment through the Marketplace Program using any form of payment that is not legal tender, such as Walmart MasterCard Rewards, store credits or employee discount credits, Walmart will credit to the amount held in trust for you in accordance with this paragraph 5(a) the full cash equivalent of the payment and/or credit received.

(b) **Referral Fee.** Walmart 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 and environmental fees separately stated and charged (the “**Referral Fee Percentage**”) from each Product sale through the Walmart.ca Site (the “**Referral Fee**”) as further set forth in the [Referral Fee Schedule](#).

(c) **Authorized Payments.** You hereby irrevocably authorize and direct Walmart to pay to itself from the monies that it holds in trust for you and that are otherwise distributable to you all Referral Fees earned by Walmart, plus applicable sales taxes.

(d) **Distributions of Funds.** All distributions to you will be remitted through the payment method you selected in the Walmart.ca Tools and acceptable by Walmart (conditions for acceptance may be modified or discontinued from time to time in Walmart’s sole discretion) and

(i) Except as provided for in paragraph (ii) below, the monies received and held in trust for you for Products shipped in each 14-day period shall be distributed to you (or as otherwise directed by you herein including but not limited to pursuant to paragraph (d) above) within 7 days of the end of such 14-day period;

(ii) Walmart may impose an initial holding period as a security requirement before funds will be disbursed for new sellers. If Walmart concludes that your actions and/or performance in connection with this Walmart Canada Marketplace Agreement may result in a chargeback under paragraph 6(f), a refund under paragraph 8(b), a customer service adjustment under paragraph 10(b), violations of Seller Policies, risks to Walmart or third parties, or other claims, then Walmart may, in its sole discretion, delay distributing to you the amount of such possible chargeback, refund or customer service adjustment (other than amounts which must be paid by you to the government or other regulatory or stewardship agency on account of sales taxes and environmental fees in respect of the relevant disputed transactions) pending completion of any investigation(s) regarding your actions or performance in connection with this Walmart Canada Marketplace Agreement. If Walmart determines that your account has been used to engage in fraudulent, deceptive or illegal activity or repeated violation of Seller Policies, we may permanently withhold payments to you in our sole discretion.

(e) **Other Security Measures.** As a security measure, Walmart 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.

(f) **Set-off and Other Rights.** For any amounts owed to Walmart (in reimbursement or otherwise), Walmart reserves the right to (x) recoup, set-off or credit against any amounts that are payable to you by us; (y) invoice you for amounts due, such amounts to be payable upon receipt or (z) use any other lawful means to collect payment or reimbursement from you.

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 checkout system. The Customer shall never be at risk of loss of funds upon receipt by Walmart of payment from the Customer. After a Customer submits an Order using the Walmart checkout system, Walmart will electronically transmit to you the Order information that Walmart determines is necessary to fulfill each Order (the “**Transaction Information**”). You acknowledge that Walmart will not confirm acceptance of an Order or conclude any Orders on your behalf and you are responsible for confirming acceptance of an Order by providing an update in the Walmart.ca Tool and fulfillment and shipment in accordance with this Section 6.

(b) **Order Fulfillment.** Once Walmart has transmitted an Order to you, you will, at your own expense, be solely responsible for, and bear all liability for, the acceptance and 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 via the Walmart.ca Tool of such cancellation, for communication to the Customer. 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 via the Walmart.ca Tool, for communication to the Customer.

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

(d) **Shipping Process.** You will be responsible for shipping all Products purchased by Customers in accordance with the [Marketplace Shipping Standards](#). 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. 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.ca Tool. Following shipment of an Order, you will promptly notify Walmart via the Walmart.ca Tool and provide all relevant information related to the Order including tracking number and carrier name. Upon notification, Walmart will send an automated email message to the Customer confirming shipment of the Order and include shipment information provided by you. Internal and external packaging for Products may not contain (1) any third party branding or marketing materials, or (2) Seller marketing materials that are not included as standard marketing materials with all of your Product shipments. Emails sent by you to Customers in connection with an Order will not contain any marketing materials or links to any Seller or third party website, except for links to shipping websites that

permit the Customer to track shipment of their Order. For the avoidance of doubt, you are required to obtain consent as applicable to send any email communications to Customer and to otherwise ensure that any email sent to a Customer complies with Canada's anti-spam legislation.

(e) **Shipping Status Reports.** During the Term, Walmart may provide you with reports on the status of Orders placed pursuant to this Walmart Canada Marketplace Agreement. The reports will be issued according to a schedule identified by Walmart to you from time to time. You will review each report upon receipt and provide Walmart 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 pursuant to this Walmart Canada Marketplace Agreement. If Walmart does not receive either (i) a Discrepancy Notice or (ii) a shipment confirmation notice from you within 30 days of placement of the Order, Walmart shall consider the Order to have been rejected and will refund the purchase price to the Customer. You will be solely liable and responsible for all Product costs and shipping costs associated with such rejected Order and you forfeit any claims for any payments of purchase price otherwise payable under this Walmart Canada Marketplace Agreement related to such rejected Orders.

(f) **Risk of Fraud or Loss.** Please note that, though Walmart 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. Walmart may, in its sole discretion, withhold for investigation, cancel or refuse to process any Orders. For all credit card chargebacks for which you bear the risk, you hereby irrevocably authorize and direct Walmart to reimburse itself for the amount of such chargebacks from the monies it holds in trust for you and that are otherwise distributable to you or to send you an invoice for such amounts and you will pay such invoice within 30 days of receipt. Notwithstanding the foregoing, Walmart will not bear the risk of credit card fraud or loss in connection with any Product that is not shipped by you to the shipping address specified in the Transaction Information provided by Walmart, and you will be responsible for all costs related thereto.

7. Taxes and Environmental Fees. You agree to and will comply with the [Tax Policies](#) and [Environmental Fee Policies](#).

8. Cancellations, Returns, Refunds, and Recalls

(a) **Cancellations and Returns.** You will promptly process all Customer cancellations, returns, refunds and/or customer service price adjustments. Without limiting your obligations, Walmart may cancel Orders per section 6(f) or in circumstances where Walmart determines (in its sole discretion acting reasonably) there was a clear error in the Product information. You agree to stop and/or cancel any Order if requested by Walmart; 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.ca Sites will be no less favorable to Customers than your most favorable policies offered on your website ("**Seller Site**") for such Products and must comply with the [Returns Policy](#).

(b) **Refunds.** You will be responsible for all non-cash refunds (e.g. 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 through Seller Center and include other related information requested by Walmart. For cash refunds Walmart will provide the refund to the Customer via

the Customer's original payment method (e.g., credit or debit card) if possible and Walmart will refund to you the amount of the Referral Fee attributable to the amount of the Customer refund (excluding any refunded taxes); provided that Walmart will have no liability for refunds offered by you in excess of the purchase price. You will be responsible for reimbursing Walmart for any cash refunds or adjustments Walmart makes to a Customer and you hereby irrevocably authorize and direct Walmart to reimburse itself for the amount of such refund or adjustment from the monies it holds in trust for you that are otherwise distributable to you for any amounts so refunded or to send you an invoice for such amounts and you will pay such invoice within 30 days of receipt.

(c) **In-Store Returns.** Walmart may provide the service of accepting Product returns, as directed by and on behalf of you. If Walmart makes a refund to a Customer for a Product sold by you, you hereby irrevocably authorize and direct Walmart to reimburse itself for the amount of such refund, including any applicable fees and expenses set forth in the [Return Policy](#) from the monies it holds in trust for you that are otherwise distributable to you for any amounts so refunded or to send you an invoice for such amounts and you will pay such invoice within 30 days of receipt. You agree to the Walmart Canada Marketplace Seller Returned Product Purchase Agreement attached as exhibit 1 to this Walmart Canada Marketplace Agreement between yourself and TRG (defined therein) for the benefit of Walmart and that in-store returns may be processed by Walmart or by third parties designated by Walmart as further described in the [Return Policy](#). Refunds pursuant to this section 8(c) that are not disputed within 90 days of the date you receive notice of the refund, are conclusively deemed accurate.

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

9. Pricing. You are solely responsible for setting the purchase price of your Product(s). Notwithstanding the foregoing, you agree to and will comply with the [Pricing Policy](#).

10. 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. You will not disparage Walmart or its affiliates or its or their Products or services when performing customer service obligations or any other obligation under this Walmart Canada Marketplace 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 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, gift wrapping and shipping fees) to a Customer that Walmart reasonably determines has not been dealt with correctly by your customer service in accordance with the [Customer Care Requirements Policy](#). and you hereby irrevocably authorize and direct Walmart to reimburse itself for such amount from the monies it holds in trust for you and that are otherwise distributable to you or to send you an invoice for such amount and you will pay such invoice within 30 days of receipt.

11. Reporting and Audit Rights

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

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

(c) **Notice upon Insolvency/Bankruptcy.** Upon the occurrence of one of the following events, you shall provide written notice to Walmart of such event within 24 hours of occurrence: (a) you file a petition for bankruptcy or are adjudicated a bankrupt; (b) a petition in bankruptcy is filed against you; (c) you become or are declared insolvent or make an assignment for the benefit of your creditors or an arrangement for your creditors pursuant to any bankruptcy or other similar law; (d) you cease to do business in the normal course; or (e) a receiver is appointed for you or your business.

12. Ownership and Use Rights

(a) **Ownership of Walmart Canada Marketplace.** Walmart, 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 Canada Marketplace, the Walmart.ca Sites, the Walmart.ca Tools, and the Walmart.ca Services, and (ii) any of their confidential or proprietary information. Except for a limited right for you to access the Walmart Websites and Walmart.ca Tools made available to you in accordance with and subject to all the terms and conditions of this Walmart Canada Marketplace Agreement, Walmart, 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 Walmart Canada Marketplace Agreement.

(b) **Ownership of Transaction Information.** Walmart owns (and you hereby assign to Walmart) all Transaction Information and all other information relating to Orders or Products, including but not limited to information that is entered into a Walmart.ca 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 [Privacy Policy](#) and any additional privacy guidelines posted by Walmart on [Seller Help](#).

(c) **Use of Transaction Information.** You may only use Transaction Information to further a transaction related to this Walmart Canada Marketplace Agreement, in accordance with the terms of the Walmart Canada Marketplace Agreement, the Walmart Privacy Policy and applicable Law (including but not limited to Canada's anti-spam legislation, the Personal Information Protection and Electronic Documents Act (Canada) and provincial legislation relating to the protection of personal information). 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 Walmart Canada Marketplace 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 user; or (v) use any information about Walmart Customers gained through the Marketplace Program to directly solicit such Walmart 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 user.

(d) **Ratings and Reviews.** Walmart may use mechanisms that rate or review, or allow shoppers to rate or review, your Products and your performance as a seller and Walmart may make these ratings publicly available. Walmart 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.ca Sites.

(e) **Suggestions and Feedback.** If you provide or make available suggestions, comments, ideas, improvements or other feedback or materials to Walmart or its affiliates in connection with the Walmart Canada Marketplace, the Walmart.ca Sites, or other subject matter of this Walmart Canada Marketplace Agreement, Walmart 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.

(f) **Walmart API.** To the extent necessary to sell and provide the Products under this Walmart Canada Marketplace Agreement, you may access and use the application programming interface (API) made available by Walmart.ca at <https://developer.walmart.com/> as may be updated or modified by Walmart from time to time (the “**Walmart API**”). All such use and access by you of the Walmart API will be governed by the API Terms of Use available at https://developer.walmartlabs.com/API_Terms_of_Use as may be updated from time to time.

13. Developer Rights

(a) **Authorization of Developers.** You may also, from time to time, provide your access credentials to the Walmart.ca Sites to a third party developer with whom Walmart and its affiliates have entered into a signed Walmart.ca Toolkit License Agreement (each, a “**Developer**”). You hereby covenant, represent and warrant that you authorize: (i) any such Developer to which you have provided your access credentials as your agent to provide the order fulfillment, inventory management, data analysis, and other service offerings in connection with this Walmart Canada Marketplace Agreement and the Walmart Canada Marketplace Program (“**Developer Offerings**”) to you or on your behalf in accordance with the Walmart.ca Toolkit License Agreement; (ii) any such Developer to access and use your accounts on the Walmart.ca Sites and your Seller Product Content, in order to provide the Developer Offerings; and (iii) Walmart and its affiliates to provide Developer the access and use set forth in Section 12(f). If you provide Walmart and any Developer written notice that you desire to revoke the foregoing authorization, then the authorization will be revoked five (5) days after receipt of the notice by Walmart. At such time, you may not allow Developer to access or use your credentials, accounts, or content. Walmart is under no obligation to enable any Developer to access your accounts or content and may disable or suspend a Developer’s access upon any revocation of the authorization or as set forth in the Walmart.ca Toolkit License Agreement.

(b) **Access by Developers.** You may enable authorized Developers to access your Seller Product Content only through the partner portal using your user ID, password or key, but you may not provide or reveal the user ID, password or key to Developers. You may not allow any third party to use or access Developers accounts, and may not do anything else that might jeopardize the security of Developer accounts. You will require each authorized Developer to notify you if the Developer becomes aware of any unauthorized use of any of such Developer's passwords, accounts, or keys, and you will notify Walmart immediately. Passwords, accounts, and keys related to the Walmart.ca Sites are the property of Walmart and its affiliates, and Walmart may disable access if a Developer misuses or shares them. You will ensure that any information a Developer makes available to Walmart in connection with your Walmart accounts will always be accurate, correct and up to date.

14. Termination or Suspension; Survival

Walmart may terminate this Walmart Canada Marketplace Agreement with you at any time in its sole discretion without notice to you on Seller Center or otherwise. Walmart may also immediately terminate or suspend your participation in the Walmart Canada Marketplace, your access to Walmart.ca Services or the Walmart.ca Tools, or remove your listings at any time in its sole discretion if you violate the terms of this Walmart Canada Marketplace Agreement. Sections 3, 6, 7, 8, 10, 11, 12, 14, 15, 16, 17, 18, 19 and 21 shall survive the expiration or termination of this Walmart Canada Marketplace Agreement for any reason.

15. General Release and Indemnification

(a) **Indemnity.** You, on behalf of yourself and any authorized Developer will defend (at Walmart's option), indemnify and hold Walmart 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, interest, costs, and expenses (including reasonable legal 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, covenants or obligations set forth in this Walmart Canada Marketplace Agreement; or (ii) the Seller Site or other sales channels, the Products, any Seller Product Content, the advertisement, offer, sale or return of any Products; or (iii) any actual or alleged infringement of any Intellectual Property Rights by you, the Products, or any Seller Product Content; or (iv) any Developer Offerings; or (v) any taxes or environmental fees, assessed, incurred, or owed in connection with, or arising out of any transaction undertaken on the Marketplace Program, or the collection, payment or failure to collect or pay such taxes or environmental fees. You will provide all cooperation, documentation, and information reasonably requested by Walmart in connection with any Claim. Walmart will have the right to control all defense and settlement of Claims.

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

16. Limitation of Liability

(a) **No Consequential Damages.** IN NO EVENT SHALL WALMART 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 HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES.

(b) **Monetary Cap.** IN NO EVENT SHALL WALMART'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, INTEREST, COSTS, AND EXPENSES (INCLUDING REASONABLE LEGAL 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 PURSUANT TO THIS WALMART CANADA MARKETPLACE 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 16 WILL SURVIVE AND APPLY EVEN IF ANY LIMITED REMEDY SPECIFIED IN THIS WALMART CANADA MARKETPLACE AGREEMENT IS FOUND TO HAVE FAILED OF ITS ESSENTIAL PURPOSE.

17. No Warranties.

THE MARKETPLACE PROGRAM, THE WALMART.CA SITES, THE WALMART.CA SERVICES, AND THE WALMART.CA TOOLS ARE PROVIDED ON AN "AS IS" BASIS. NEITHER WALMART 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.CA SITES, THE WALMART.CA SERVICES, OR THE WALMART.CA 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 AND ITS AFFILIATES DISCLAIM ANY AND ALL SUCH WARRANTIES. YOU AND ANY DEVELOPER WILL EACH BE SOLELY RESPONSIBLE FOR (AND WALMART AND ITS AFFILIATES HAVE NO RESPONSIBILITY TO YOU, ANY DEVELOPER OR TO ANY THIRD PARTY FOR) ANY ACTS AND OMISSIONS OF (INCLUDING ANY FAILURE TO COMPLY WITH THIS WALMART CANADA MARKETPLACE AGREEMENT OR ANY WALMART TOOLKIT LICENSE AGREEMENT) YOU OR A DEVELOPER, AND FOR THE CONSEQUENCES OF ANY SUCH ACTS AND OMISSIONS (INCLUDING ANY LOSS OR DAMAGE THAT WALMART OR ITS AFFILIATES MAY SUFFER) IN CONNECTION WITH THE SUBJECT MATTER OF THIS WALMART CANADA MARKETPLACE AGREEMENT.

18. Insurance. You will maintain, at your sole expense, commercial general liability insurance with limits of at least \$2,000,000 (or such higher amount as requested by Walmart from time to time) per occurrence covering liabilities caused by or occurring in connection with this Walmart Canada Marketplace Agreement or your business, or as otherwise required by Walmart from time to time.

19. Information Security. You will comply with the [Information Security Addendum](#).

20. Statement of Ethics. Walmart expects all Sellers to act ethically and in a manner consistent with [Walmart's Statement of Ethics](#).

21. Miscellaneous

(a) **Integrated Agreement.** This Walmart Canada Marketplace Agreement (and all (i) **Seller Policies** including [Product Content Policy](#), [Referral Fee Schedule](#), [Customer Care Requirements Policy](#), [Seller Performance Standards](#), [Marketplace Shipping Standards](#), [Returns Policy](#), [Prohibited Products Policy](#), [Refurbished/Vintage Items Policy](#), [Tax Policies](#), [Environmental Fee Policies](#), [Information Security Addendum](#), [Walmart's Statement of Ethics](#), [Pricing Policy](#); and (ii) the attached Walmart Canada Marketplace Seller Returned Product Purchase Agreement and any Toolkit License Agreement), which you agree to comply with are incorporated by reference into this Walmart Canada Marketplace Agreement and constitutes the complete integrated agreement between the Parties concerning the subject matter of this Walmart Canada Marketplace Agreement. All prior and contemporaneous agreements, understandings, negotiations or representations, whether oral or in writing, relating to the subject matter of this Walmart Canada Marketplace Agreement are superseded in their entirety by this Walmart Canada Marketplace Agreement. To the extent you are already a party to an agreement with Walmart regarding your participation as a Seller in the Walmart Canada Marketplace Program, the terms and conditions of that agreement are hereby terminated and replaced in their entirety with the terms and conditions of this Walmart Canada Marketplace 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 Walmart Canada Marketplace Agreement.

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

(d) **Governing Law.** This Walmart Canada Marketplace Agreement is governed by and will be construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein without regard to its principles of conflicts of law. You agree to exclusive jurisdiction of the federal and provincial courts located in the Province of Ontario, and waive any jurisdictional, venue or inconvenient forum objections to such courts.

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

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

(g) **Publicity.** You will not use the name, logo, trademarks or trade names of Walmart or any of their affiliates or otherwise, directly or indirectly, refer to Walmart 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.

(h) **Confidentiality.** You may have entered a separate confidentiality agreement with Walmart. This Walmart Canada Marketplace Agreement does not limit your obligations under that agreement and all terms and conditions of such confidentiality agreement are hereby incorporated by reference. If there is a conflict among terms in this Walmart Canada Marketplace Agreement and the separate confidentiality agreement, the terms in this Walmart Canada Marketplace Agreement will prevail. 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 regarding your compliance with this Walmart Canada Marketplace Agreement or any information relating to Walmart, its customers (including Transaction Information) or to the Walmart.ca Services that is not known to the general public (“**Confidential Information**”). You agree: (i) to hold the Confidential Information in confidence by using the same degree of care to safeguard such Confidential Information as you use to protect your own information of like character, but in no event less than a reasonable degree of care; (ii) to limit disclosure of the Confidential Information except as permitted under this Walmart Canada Marketplace Agreement; (iii) not to directly or indirectly disclose any Confidential Information to any third party unless and only to the extent required by law; (iv) to use the Confidential Information solely and exclusively in accordance with the terms of this Walmart Canada Marketplace Agreement; (v) not remove or obscure proprietary rights/notices that appear on Confidential Information and copies thereof; and (vi) to advise Walmart promptly in writing of any unauthorized disclosure or use of Confidential Information.

(i) **Severability.** In the event that any provision of this Walmart Canada Marketplace 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 Walmart Canada Marketplace Agreement, while the remainder of this Walmart Canada Marketplace 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 Walmart Canada Marketplace 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 Walmart Canada Marketplace 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 operate as a waiver of any right or remedy.

(k) **Currency.** All references herein to currency are to Canadian currency and all payments shall be made in Canadian currency.

(l) **Counterparts.** This Walmart Canada Marketplace Agreement may be executed in counterparts. Each counterpart shall be deemed an original, and all counterparts taken together shall constitute one and the same agreement, which shall be binding and effective as to all Parties. Each of the Parties agree that a facsimile, scanned or electronic copy of a signature evidencing a party’s execution of this Walmart Canada Marketplace Agreement shall have the same force, validity, and effect as an originally executed copy.

Exhibit 1

Walmart Canada Marketplace Seller Returned Product Purchase Agreement

This Walmart Canada Marketplace Seller Returned Product Purchase Agreement (the “**Agreement**”) is between you (the “**Seller**” or “**you**”) and 2384309 Ontario Inc. (“**TRG**”). The Agreement sets out the terms and conditions pursuant to which TRG will purchase certain Returned Products (defined below) from Seller and provide consolidation and return shipping services to Seller.

1. In-Store Returns Processing

Pursuant the Walmart Canada Marketplace Agreement (the “**MP Seller Agreement**”) between Seller and Wal-Mart Canada Corp. (“**Walmart**”), any Returned Product (as defined in the MP Seller Agreement) returned to a Walmart store by a Customer (as defined in the MP Seller Agreement) will be processed and delivered to a TRG facility (the “**TRG Facility**”). All right, title, and interest in and to Seller’s Returned Product shall belong to the Seller from the moment the Returned Product is returned to a Walmart store. Seller is responsible for all risk of loss to the Returned Product except when the Returned Product is in TRG’s care and control.

2. Purchase of Returned Product

- (a) If Seller elected “Option #1: R – Recycle/Re-sell” for any category of Product (as defined in the MP Seller Agreement) during its onboarding process, you agree to sell all Returned Product falling within that category to TRG on the terms in this Section 2.
- (b) TRG acknowledges and agrees that the Returned Product has been previously sold to Customers (as defined in the MP Seller Agreement) and that the Returned Product is purchased on an “as is where is” basis with no representation, warranty or condition, express or implied, in respect of the Returned Product, including (without limitation) fitness for any particular purpose, quality, merchantability and any conditions or warranties express or implied by the *Sale of Goods Act* (Ontario) or any similar federal or provincial legislation. The parties hereby expressly exclude the application of the United Nations Convention on Contracts for the International Sale of Goods and the *International Sale of Goods Act* (Ontario).
- (c) Upon arrival of the Returned Product at the TRG Facility, in exchange for the covenants of TRG contained herein, Seller transfers its right, title and interest in and to the Returned Product to TRG, free and clear of any lien or encumbrances arising by or through Seller.
- (d) TRG acknowledges and agrees that the Returned Product shall not be represented by TRG (including, without limitation, anyone acting on its behalf and/or any person who may purchase any Returned Product from TRG) as “new” or “new condition”. Such Returned Product shall be represented as “pre-owned”, “open-box”, “used” or “TRG refurbished”.

3. Returns Shipping

If Seller elected “Option #2: S – Return Product to Seller” for any category of Product (as defined in the MP Seller Agreement) during its onboarding process, TRG will provide the following services with respect to Returned Product falling within that category:

- (a) Consolidate the Seller’s Returned Product at the TRG Facility.
- (b) Once the Seller’s Returned Product accumulates to reaches a full pallet (“**Full Pallet**”) or 30 days have elapsed, whichever is sooner, TRG will automatically ship the Returned Product (Full Pallet or otherwise) to the location designated by the Seller to TRG (the “**Designated Location**”), at Seller’s expense.
- (c) TRG will be the shipper and exporter of record for all Returned Product shipped to a Designated Location outside of Canada, provided Seller shall be responsible for and shall indemnify TRG for any duties, brokerage, fines and/or related expenses, and taxes payable in respect of such Returned Product.
- (d) Seller shall complete any necessary documentation to facilitate the shipment of Returned Product to any Designated Location, as TRG may require.

4. Term and Termination

This term of this Agreement shall begin on the date you click on the “I Agree” button below and continue until terminated under this Section 4. TRG may terminate this Agreement at any time in its discretion without notice. This Agreement shall automatically terminate in the event the MP Seller Agreement between Seller and Walmart is terminated by Walmart.

5. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the Province of Ontario, and of the laws of Canada applicable therein. The parties irrevocably attorn to the jurisdiction of the courts of the Province of Ontario.

ARTICLE III: WALMART CANADA FULFILLMENT SERVICES AGREEMENT

The terms contained in Article III apply only to Walmart Canada Marketplace Sellers receiving WFS Services.

22. WFS Services. In the event that you select to participate in the WFS Services in order to offer Products on Walmart Canada Marketplace and/or seek to use all or a part of the supply chain capabilities and services offered by Walmart, including but not limited to, inbound logistics, fulfillment, outbound transportation and reverse logistics in connection with Walmart Canada Marketplace (the “**WFS Services**”), Article III shall additionally govern your use of the WFS Services.

23. WFS Services Additional Terms. The WFS Services are governed by the Agreement including the terms contained within this Article III. The WFS Agreement consists of these WFS Services terms and conditions set forth in this Article III, the [WFS Services Description \(including WFS Fees and Service Levels\)](#), and the [Routing Guide](#), each of which are incorporated here by this reference. In the event of a conflict, inconsistency or ambiguity between the Agreement and the WFS Agreement, this WFS Agreement shall govern and control, only with respect to the WFS Services.

You represent and warrant that you are registering for WFS Services on behalf of an entity and that you have the requisite right, power, and authority to enter into this WFS Agreement on behalf of the entity you register for WFS Services. You will update all of the information you provide to us in connection with the WFS Services as necessary to ensure that it at all times remains accurate, complete, and valid. You authorize us to verify your information (including any updated information) from time to time.

24. Term; Termination. This WFS Agreement shall start on the date of your execution of this WFS Agreement (“**Effective Date**”) and shall continue until terminated by you or Walmart in accordance with this WFS Agreement. Either you or Walmart may at any time, terminate this WFS Agreement with or without cause, upon thirty (30) days’ prior written notice to the other party. If Seller materially breaches this WFS Agreement, or the Walmart Canada Marketplace Agreement, Walmart may immediately terminate this WFS Agreement, in whole or in part, or immediately suspend all or any portion of the WFS Services by giving written notice to Seller. If either party terminates this WFS Agreement, you will be billed for all unpaid expenses and any cost associated with returning Inventory.

25. Services. WFS Services shall only be performed with respect to inventory that is acquired and owned by Seller that is delivered to and accepted by Walmart for storage and processing under the terms of this WFS Agreement (the “Inventory”).

- (a) **Inventory.** As more fully described in this WFS Agreement and the [Services Description](#), Walmart shall receive, store, and process Inventory on Seller’s behalf. Unless otherwise permitted pursuant to the Agreement, Walmart will hold Inventory tendered pursuant to this WFS Agreement for distribution as directed by Seller and for no other purpose, use or disposition. All right, title and interest to such Inventory will remain at all times with

Seller. Walmart will hold all such Inventory as a bailee only. Risk of loss and damage to Inventory will remain with the Seller until delivered to the Walmart Facility.

- (b) Facilities. Walmart will use the Facilities listed in the **Services Description** to provide the WFS Services. If Walmart needs to use other facilities to perform the WFS Services, Walmart shall notify Seller prior to relocating Inventory from a Facility listed in the Services Description to another facility.
- (c) Lien on Inventory. Walmart shall have a warehouseman's lien on the Inventory to secure payment of the Service Fees agreed to between the parties in this WFS Agreement.
- (d) Hazardous Materials. Seller warrants and represents that no Hazardous Materials will be included in the Inventory subject to this WFS Agreement unless first approved by Walmart. "Hazardous Materials" means any product or substance whose presence, use, transportation or release, either by itself or in combination with other materials, is either (i) potentially injurious to the public health, safety or welfare, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability to any governmental agency or third party under any applicable statute or common law theory. Any Hazardous Materials of Seller are required to go through a product safety assessment to ensure that Walmart can properly and legally handle, store and ship such product.

26. Service Fees and Payment Terms.

- (a) Service Fees. Seller shall pay the fees plus applicable taxes for the WFS Services ("Service Fees") as set forth in **Fees**.
- (b) Payment. Walmart will provide Seller a statement for all amounts due, including applicable sales tax, in which case Seller will pay the amounts upon receipt, or collect payment or reimbursement from Seller by any lawful means. Walmart may offset, set-off or recoup amounts owed by Seller to Walmart under this WFS Agreement from payments Walmart may make to Seller under the Walmart Canada Marketplace Agreement.
- (c) Credit and Financial Information. Walmart reserves the right to change or revoke Seller's credit limit on the basis of any non-payment amounts owed under this WFS Agreement. In such case and upon ten (10) days prior written notice by Walmart, Seller agrees that Walmart will have the right to decline to extend credit to Seller and to require that the applicable Fees and costs be paid prior to performance of the WFS Services. Seller will promptly notify Walmart of all changes to Seller's name, address, payment details, or a pending sale of substantially all of its assets. Any obligation of Walmart under these terms and conditions to deliver Inventory or WFS Services on credit terms will terminate upon ten (10) days prior written notice by Walmart if Seller files a voluntary petition under a bankruptcy statute, or makes an assignment for the benefit of creditors, or if an involuntary petition under a bankruptcy statute is filed against Seller, or if a receiver or trustee is appointed to take possession of the assets of Seller.

- (d) Tax. Tax will be applied to Service Fees where applicable. Seller is responsible to pay all taxes calculated per the Seller statement provided by Walmart.
- (e) Environmental Fees. Seller agrees to provide Walmart with the packaging materials data concerning the Inventory. Seller also agrees to reimburse Walmart for any environmental fees, program fees or other fees associated with the packaging materials or product supply data costs that may be incurred or paid by Walmart.

27. Compliance with Laws and Policies. Both parties agree to comply fully with any and all applicable federal, provincial or local laws, regulations, ordinances, permits, or other authorizations without limitation.

(a) In addition to Seller's representations and warranties and obligations set forth in section 2 of the Walmart Canada Marketplace Agreement ("General Product Policy"), Seller represents and warrants that (i) it has valid legal title to all Inventory and all necessary rights to perform under this WFS Agreement; (ii) all Inventory and its packaging complies with applicable laws for marking, labeling, and other requirements; (iii) the Inventory has been produced in compliance with applicable laws; and (iv) the Inventory complies with Walmart restricted products policies.

(b) Seller will not use the Services to directly or indirectly export, re-export, transmit, or cause to be exported, re-exported or transmitted, any commodities, software or technology to any country, individual, corporation, organization, or entity to which such export, re-export, or transmission is restricted or prohibited, including any country, individual, corporation, organization, or entity under sanctions or embargoes administered by the United Nations, Government of Canada, US Departments of State, Treasury or Commerce, the European Union, or any other applicable government authority.

(c) Seller represents and warrants that its Inventory and each product it sells or offers to sell on Walmart Marketplace or tenders to Walmart for WFS Services complies with all applicable laws and regulations, including without limitation Hazardous Products Regulations, Transportation of Dangerous Goods Act and Regulations, Canada Pest Control Products Act and related provincial pest control and pesticide regulations, Textile Labeling Act, Textile Labelling and Advertising Regulations, rules and regulations of Innovation, Science, and Economic Development Canada and related provincial regulations. Seller acknowledges that it is solely responsible for disclosing all relevant information regarding its Inventory and each product to ensure that Walmart can properly and legally handle, store, ship, and dispose of such product.

(d) If Walmart determines that Inventory: (i) does not comply with applicable laws and regulations; (ii) is incorrectly labelled; or (iii) is in breach of the Walmart Marketplace Agreement or its policies, Walmart may return, dispose or destroy the Inventory, at Seller's sole cost and expense.

28. Cross Default. If Seller is in material breach of this WFS Agreement, Walmart may, in its sole discretion, deem Seller in material breach of any other contract that Seller has with Walmart. Likewise, if Seller is in material breach of any other contract with Walmart, Walmart may, in its sole discretion, deem

Seller to be in material breach of this WFS Agreement. In each case, Walmart may pursue against Seller any and all remedies that Walmart has at law or in equity.

29. Indemnities. In addition to the indemnification obligations set forth in Article II, Section 15 , the following indemnification obligations of the parties shall be included, only with respect to Article III.

In the event of (a) any act or omission of Seller or its employees, servants, agents, or representatives relating to the WFS Services causes or results in (i) loss, damage to or destruction of property of Walmart or third parties, and/or (ii) death or injury to persons including, but not limited to, employees or invitees of Seller; (b) Seller's violation of any law, statute, ordinance, governmental administrative order, rule or regulation relating to the WFS Services; (c) Seller's negligent act or omission or willful misconduct by a party, or any of its employees, representatives or agents relating to the WFS Services; or (d) any breach by Seller of its representations, warranties, or obligations under this WFS Agreement, then Seller shall indemnify, defend, and hold Walmart harmless from and against any and all claims, actions, damages, demands, liabilities, costs, and expenses, including reasonable lawyer fees and expenses, resulting therefrom. Walmart shall indemnify Seller from any and all third-party liability damages, claims, suits, judgments, costs and expenses (including reasonable outside lawyers' fees), incurred as a result of its failure to comply with applicable law, regulation, or governmental administrative order in performing its obligations under this WFS Agreement.

30. Limitation of Liability.

(a) IN NO EVENT SHALL EITHER PARTY BE LIABLE TO THE OTHER PARTY TO THIS WFS AGREEMENT FOR ANY INCIDENTAL, SPECIAL, INDIRECT, PUNITIVE AND/OR CONSEQUENTIAL DAMAGES, EVEN IF THE PARTY HAS BEEN ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, ARISING FROM OR RELATED TO THE PERFORMANCE OR ANY FAILURE TO PERFORM ANY OF SUCH PARTY'S OBLIGATIONS UNDER THIS WFS AGREEMENT.

(b) TO THE MAXIMUM EXTENT PERMITTED BY LAW, IN NO EVENT SHALL THE AGGREGATE LIABILITY OF EITHER PARTY ARISING OUT OF OR RELATED TO THIS WFS AGREEMENT EXCEED THE TOTAL AMOUNT PAID BY SELLER FOR THE SERVICE GIVING RISE TO THE LIABILITY IN THE TWELVE-MONTH PERIOD PRECEDING THE FIRST INCIDENT OUT OF WHICH THE LIABILITY AROSE.

(c) (i) THE FOREGOING LIMITATIONS OF LIABILITY IN SECTION 30(a) AND 30(b) SHALL NOT APPLY TO LIMIT DAMAGE RECOVERY WHICH ARISES FROM OR IS RELATED TO A PARTY'S GROSS NEGLIGENCE IN THE PERFORMANCE OF OR THE FAILURE TO PERFORM SUCH PARTY'S OBLIGATIONS HEREUNDER; AND (ii) THE FOREGOING LIMITATION OF LIABILITY IN SECTION 30(b) SHALL NOT APPLY TO LIMIT DAMAGE RECOVERY WHICH ARISES FROM OR IS RELATED TO A PARTY'S INDEMNIFICATION OBLIGATION IN SECTION 29.

FOR CLARIFICATION AND AVOIDANCE OF DOUBT, THIS SECTION 30 SHALL ONLY APPLY TO THE RECEIPT AND PROVISION OF WFS SERVICES SET FORTH IN ARTICLE III.

31. Assignment; Benefit; Binding Effect. Neither party shall assign this WFS Agreement without the other party's prior written consent, which will not be unreasonably withheld or delayed. Any change in the direct or indirect ownership or control of more than fifty percent (50%) of the outstanding stock or ownership interests of a party during any twelve (12) consecutive calendar month period shall be deemed an assignment for purposes of this WFS Agreement. Walmart, in its sole discretion and without Seller's consent, may assign this WFS Agreement to a subsidiary or affiliate. This WFS Agreement shall inure to the benefit of, and be binding upon, the parties to this WFS Agreement and their respective successors and permitted assigns. The rights and remedies of each party are cumulative and, not exclusive of, any rights or remedies which that party would otherwise have at law or in equity. No third-party beneficiaries are created by this WFS Agreement, except for the indemnified parties. To the extent allowed by law, if any provision of this WFS Agreement is determined by law to be unenforceable, the remainder may be enforced.

32. Governing Law; Venue; Statute of Limitations. This WFS Agreement and any and all related disputes, shall be governed by, enforced and construed in accordance with the laws of the Province of Ontario and the federal laws of Canada applicable therein without regard to its principles of conflicts of laws. You agree to exclusive jurisdiction of the federal and provincial courts located in the Province of Ontario, and waive any jurisdictional, venue or inconvenient forum objections to such courts.

The parties acknowledge that they have read and understand this clause and agree willingly to its terms.

33. Survival of Provisions. The expiration or termination of this WFS Agreement shall not affect the provisions, and the associated rights and obligations, which either: (i) by their terms state or evidence the intent of the Parties that the provisions survive expiration or termination, or (ii) must survive to give effect to the provisions.

34. Non-Waiver. The waiver by either party of a breach of or a default under any provision of this WFS 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 WFS 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 operate as a waiver of any right or remedy.

35. Confidential Information. Each party recognizes that it may come into possession of information relating to the business of the other party that is not available to the general public or that reasonably or logically may be considered to be confidential or proprietary, regardless of the form or media in which it is maintained, that may be accessed by, or disclosed to, the party in connection with or incidental to the performance of the WFS Services or otherwise ("Confidential Information"). Each party is the sole owner of its Confidential Information. Each party acknowledges that it is solely responsible for the confidentiality and security of the other party's Confidential Information in its possession, custody, or control. Neither party may use, copy, or disclose the other party's Confidential Information except to the extent needed to perform the Services or other obligations of this WFS Agreement or as otherwise expressly provided in this WFS Agreement.

Notwithstanding any provision of this WFS Agreement to the contrary, neither Party shall be deemed to have violated its duty of confidentiality with respect to the following authorized disclosures of Confidential Information: (i) disclosure of Confidential Information which the disclosing Party can reasonably prove is, or had previously become, generally known by third parties through no breach or fault of the disclosing Party; (ii) disclosure of Confidential Information required by applicable law; and (iii) disclosure of Confidential Information to the disclosing Party's employees, auditors, lawyers or other authorized representatives or agents for purposes of performing its obligations under this WFS Agreement, provided that the disclosing Party shall take all steps necessary to ensure that such employees, auditors, lawyers and other authorized representatives maintain the confidentiality of all Confidential Information. Upon termination of this WFS Agreement, at either Party's written request, the other Party shall promptly destroy all copies of Confidential Information and provide the requesting Party with certification of such destruction.

36. Publicity. Seller shall not, without Walmart's prior written consent, refer to Walmart or any of its subsidiaries or affiliates in any advertising or published communication, or use, or allow to be used, Walmart's name, logo, trademarks, service marks, patents, copyrights or trade dress.

37. Lawyer's Fees. In the event either Party brings any action or proceeding against the other under this WFS Agreement, each Party will be responsible for its own lawyer's fees, costs, and expenses.

38. Force Majeure. If any place of business or other premises of Walmart or Seller is affected by lockouts, strikes, riots, war, acts of terrorism, fire, civil insurrection, flood, earthquake, acts of God, or any other events beyond that party's control (but not including market fluctuations other than those caused by reason of the foregoing), which might reasonably tend to impede or delay the Services covered by this WFS Agreement, the party so impacted may, at its option, cancel all or any part of the applicable Services by giving prompt written notice to the other party.

39. Entire Agreement. This WFS Agreement (including **Fees, WFS Services Descriptions, Service Level Agreements, Routing Guide**), and Walmart Canada Marketplace Agreement (including Seller Policies), each of which is incorporated by reference into this WFS Agreement, constitutes the complete integrated agreement between the parties concerning the subject matter of this WFS Agreement. All prior and contemporaneous agreements, understandings, negotiations or representations, whether oral or in writing, relating to the subject matter of this WFS Agreement are superseded in their entirety by this WFS Agreement. In the event of a conflict between this WFS Agreement and the Walmart Canada Marketplace Agreement, this WFS Agreement shall prevail.

40. Severability. In the event that any provision of this WFS 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 WFS Agreement, while the remainder of this WFS Agreement shall continue in full force and remain in effect according to its stated terms and conditions.

41. Currency. All references herein to currency are to Canadian currency and all payments shall be made in Canadian currency.