

# **WALMART BRAND PORTAL**

## **TERMS AND CONDITIONS OF USE**

*Last Updated: October 26, 2021*

### **Use and Authorization**

Welcome to the Walmart Brand Portal. Among other services, the Walmart Brand Portal provides an interface for Rights Owners (as defined below) to register and verify intellectual property rights ownership within Walmart Marketplace, report alleged intellectual property rights infringement, and monitor claim status.

Please read these Terms and Conditions of Use (the “Terms”) carefully before using the Walmart Brand Portal currently located at [www.brandportal.walmart.com](http://www.brandportal.walmart.com) (together with any materials and services available in it, and successor site(s) to it, the “Portal”).

These Terms are between you and Walmart Inc. (“Operator”). By accessing or using the Portal, or otherwise indicating your consent, you are agreeing to be bound by these Terms.

The Terms incorporate by this reference any additional terms and conditions posted by Operator through the Portal, or otherwise made available to you by Operator.

BY USING THE PORTAL, YOU AFFIRM THAT YOU ARE OF LEGAL AGE TO ENTER INTO THE TERMS.

IF YOU ARE AN INDIVIDUAL ACCESSING OR USING THE PORTAL ON BEHALF OF, OR FOR THE BENEFIT OF, ANY CORPORATION, PARTNERSHIP OR OTHER ENTITY WITH WHICH YOU ARE ASSOCIATED (AN “ORGANIZATION”), THEN YOU ARE AGREEING TO THESE TERMS ON BEHALF OF YOURSELF AND SUCH ORGANIZATION, AND YOU REPRESENT AND WARRANT THAT YOU HAVE THE LEGAL AUTHORITY TO BIND SUCH ORGANIZATION TO THESE TERMS. References to “you” and “your” in these Terms will refer to both the individual accessing or using the Portal and to any such Organization.

The Portal is provided for the use of registered United States Patent and Trademark Office trademark owners (“Rights Owners”). You must not use the Portal unless you are a Rights Owner, the legal representative of a Rights Owner, or a person approved by the Rights Owner. You are solely responsible for all activities that occur under your Portal account credentials. You represent and warrant that you: (1) have read and understand the Terms; (2) are either a Rights Owner, a Rights Owner’s legal representative, or have received written approval to access the Portal by a Rights Owner; (3) will access and use the Portal only with information that you own or legally possess, and have the right to use in connection with the Portal; (4) have all necessary consents and permissions to view any

information with respect to any account that you access, and to undertake any of the actions with respect to any such account that you undertake; (5) will maintain the confidentiality and privacy of all information viewed or accessed in any manner through the Portal; and (6) will comply in all respects with these Terms.

IF YOU ARE NOT AUTHORIZED TO USE THIS PORTAL, YOU MUST STOP ACCESSING AND USING THIS PORTAL IMMEDIATELY.

## Right to Change the Terms

Operator may change the Terms from time to time by notifying you of such changes by any reasonable means, including by posting revised Terms on the Portal. Any changes to the Terms will be effective immediately upon such posting or other notice. No such changes will apply to any dispute between you and Operator arising prior to the date on which Operator posted or otherwise notified you of such changes.

Your use of the Portal following any changes to the Terms will constitute your acceptance of such changes. The “*Last Updated*” legend above indicates when the Terms were last changed. Operator may, at any time and without liability, modify or discontinue all or part of the Portal (including access to the Portal via any third-party links); charge, modify or waive any fees required to use the Portal; or offer opportunities to some or all Portal users.

## Jurisdictional Issues

The Portal is controlled or operated (or both) from the United States and is not intended to subject Operator to any non-U.S. jurisdiction or law. The Portal may not be appropriate or available for use in some non-U.S. jurisdictions. Any use of the Portal is at your own risk, and you must comply with all applicable laws, rules and regulations in doing so. Operator may limit the Portal's availability at any time, in whole or in part, to any person, geographic area or jurisdiction that Operator chooses.

## Rules of Conduct

In connection with the Portal, you must not:

- Post, transmit or otherwise make available through or in connection with the Portal any materials that are or may be: (a) threatening, harassing, degrading, hateful or intimidating, or otherwise fail to respect the rights and dignity of others; (b) defamatory, libelous, fraudulent or otherwise tortious; (c) obscene, indecent, pornographic or otherwise objectionable; or (d) protected by copyright, trademark, trade secret, right of publicity or privacy or any other proprietary right, without the express prior written consent of the applicable owner.
- Post, transmit or otherwise make available through or in connection with the Portal any virus, worm, Trojan horse, Easter egg, time bomb, spyware or other computer code, file or program that is or is potentially harmful or invasive or intended to damage or hijack the operation of, or to monitor the use of, any hardware, software

or equipment (each, a "Virus").

- Use the Portal for any purpose that is deceptive, fraudulent or otherwise tortious or unlawful.
- Harvest or collect information about users of the Portal.
- Interfere with or disrupt the operation of the Portal or the servers or networks used to make the Portal available, including by hacking or defacing any portion of the Portal; or violate any requirement, procedure or policy of such servers or networks.
- Restrict or inhibit any other person from using the Portal.
- Reproduce, modify, adapt, translate, create derivative works of, sell, rent, lease, loan, timeshare, distribute or otherwise exploit any portion of (or any use of) the Portal except as expressly authorized in these Terms, without Operator's express prior written consent.
- Reverse engineer, decompile or disassemble any portion of the Portal.
- Remove any copyright, trademark or other proprietary rights notice from the Portal.
- Frame or mirror any portion of the Portal, or otherwise incorporate any portion of the Portal into any product or service, without Operator's express prior written consent.
- Systematically download and store Portal content.
- Use any robot, spider, site search/retrieval application or other manual or automatic device to retrieve, index, "scrape," "data mine" or otherwise gather Portal content, or reproduce or circumvent the navigational structure or presentation of the Portal, without Operator's express prior written consent.

You are responsible for obtaining, maintaining and paying for all hardware and all telecommunications and other services needed to use the Portal.

## Services

The Portal may make available certain services and certain information, data, materials, references, links, and descriptions relating thereto (collectively, "Services"). Operator makes no representations as to the completeness, accuracy or timeliness of any Service. The Services are subject to change at any time without notice. Any reliance that you place on any Service is strictly at your own risk. Operator disclaims all liability and responsibility arising from any reliance placed on any Service by you, by any other user of the Portal, or by any third party (including anyone who may learn of any Service).

## Registration; User Names and Passwords

You may need to register to use all or part of the Portal. Operator may reject, or require that you change, any user name, password or other information that you provide to us in registering. Your user name and password are for your personal use only and should be kept confidential; you, and not Operator, are responsible for any use or misuse of your user name or password, and you must promptly notify us of any confidentiality breach or unauthorized use of your user name or password, or your Portal account.

## Submissions

If you make available to us any information, content or other materials through or in connection with the Portal (each, a “Submission”), including any ideas, proposals or suggestions (“Feedback”), you hereby grant to Operator a worldwide, royalty-free, fully paid-up, non-exclusive, perpetual, irrevocable, transferable and fully sublicensable (through multiple tiers) license, without additional consideration to you or any third party, to reproduce, distribute, perform and display (publicly or otherwise), create derivative works of, adapt, modify and otherwise use, analyze and exploit such Submissions, in any format or media now known or hereafter developed, and for any purpose (including promotional purposes, such as testimonials). In addition, you hereby acknowledge and agree that Feedback is not confidential, and that your provision of any Feedback is gratuitous, unsolicited and without restriction, and does not place Operator under any fiduciary or other obligation.

You represent and warrant that you have all rights necessary to grant the licenses granted in this section, and that no Submission is fraudulent, tortious or otherwise in violation of any applicable law or any right of any third party. You further irrevocably waive any “moral rights” or other rights with respect to attribution of authorship or integrity of materials regarding any Submission that you may have under any applicable law under any legal theory.

## Monitoring

Operator may (but has no obligation to) monitor, evaluate, alter or remove any materials before or after they appear on the Portal, or analyze your access to or use of the Portal. In the event Operator is required by applicable law, regulation, or any competent judicial, supervisory, or regulatory body, or for the purpose of obtaining legal counsel or determining unlawful activity, Operator may disclose information regarding your access to and use of the Portal, and the circumstances surrounding such access and use.

## Your Limited Rights

Subject to your compliance with the Terms, and solely for so long as you are permitted by Operator to use the Portal, Operator provides an Organization one (1) account to access any portion of the Portal to which Operator provides access under these Terms. Each individual responsible for accessing or using the Portal on behalf of the Organization must be assigned to the account with a unique email address.

## Operator's Proprietary Rights

Operator and Operator's suppliers own the Portal, which is protected by proprietary rights and laws. Operator's trade names, trademarks and service marks include WALMART and any associated logos. All trade names, trademarks, service marks and logos on the Portal not owned by Operator are the property of their respective owners. You may not use Operator's trade names, trademarks, service marks or logos in connection with any product or service that is not Operator's, or in any manner that is likely to cause confusion. All content included on the Portal, such as text, graphics, logos, images, and data, with the exception of trade names, trademarks, service marks and logos not owned by Operator, is the property of Operator and is protected by United States and international copyright laws. Operator retains all right, title, and interest in its intellectual property of any kind or nature, including, without limitation, any trade name, domain name, logo, trade dress, trademark, service mark, patent, copyright, any registrations thereof and pending applications therefor, trade secret, confidential information, or other intellectual property right related in any manner to the Portal, including, but not limited to, all such rights related to the software, products, processes, workflows, services, designs, or logos. You acknowledge that Operator retains all right, interest and title in its intellectual property related in any manner to the Portal and you agree not to contest those rights or engage in any conduct contrary to those rights.

## Third Party Materials; Links

Certain Portal functionality may make available access to information, products, services and other materials made available by third parties ("Third Party Materials"), or allow for the routing or transmission of such Third Party Materials, including via links. By using such functionality, you are directing us to access, route and transmit to you the applicable Third Party Materials.

Operator neither controls nor endorses, nor is responsible for, any Third Party Materials, including the accuracy, validity, timeliness, completeness, reliability, integrity, quality, legality, usefulness or safety of Third Party Materials, or any intellectual property rights in the Third Party Materials. Certain Third Party Materials may, among other things, be inaccurate, misleading or deceptive. Nothing in the Terms shall be deemed to be a representation or warranty by Operator with respect to any Third Party Materials. Operator has no obligation to monitor Third Party Materials, and Operator may block or disable access to any Third Party Materials (in whole or part) through the Portal at any time. In addition, the availability of any Third Party Materials through the Portal does not imply Operator's endorsement of, or affiliation with, any provider of such Third Party Materials, nor does such availability create any legal relationship between you and any such provider.

Your use of Third Party Materials is at your own risk and is subject to any additional terms, conditions and policies applicable to such Third Party Materials (such as terms of service or privacy policies of the providers of such Third Party Materials).

## Privacy Laws and Privacy Practices

We are committed to the privacy and confidentiality of personal information. All users of the Portal are required to comply in all respects with all applicable privacy laws.

<https://corporate.walmart.com/privacy-security/walmart-privacy-policy>

You are responsible for maintaining the confidentiality of all information accessed through the Portal and for restricting access to your computer, and you are solely responsible for all activities that occur under your login or account. Neither Operator, nor any affiliate, member, manager, officer, director, agent, employee or representative (collectively, "Representatives") of Operator will be liable for any loss or damage arising from your failure to comply with this provision. Additionally, all Rights Owners are responsible for the use and misuse by their legal representatives and authorized users of this Portal and the information in the Portal.

We are committed to protecting the privacy of children. THIS PORTAL IS NOT INTENDED FOR USE BY ANYONE UNDER THE AGE OF 18. Please note that parental control protections (such as computer hardware, software, or filtering services) are commercially available that may assist you in limiting access to material that is harmful to minors. Information identifying current providers of such protections is available from [https://en.wikipedia.org/wiki/Comparison\\_of\\_content\\_control\\_software\\_and\\_providers](https://en.wikipedia.org/wiki/Comparison_of_content_control_software_and_providers). Please note that Operator does not endorse any of the products or services listed on such site.

### **Disclaimer of Warranties and Limitation of Liability**

TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, THE PORTAL AND ANY PRODUCTS, SERVICES AND THIRD PARTY MATERIALS ARE PROVIDED BY OPERATOR TO YOU ON AN "AS IS," "WHERE IS" AND "AS AVAILABLE" BASIS, WITHOUT ANY REPRESENTATIONS AND WARRANTIES OF ANY KIND, WHETHER EXPRESS, IMPLIED OR STATUTORY. YOU EXPRESSLY AGREE THAT YOUR USE OF THE PORTAL IS AT YOUR SOLE RISK. TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, OPERATOR DISCLAIMS ALL WARRANTIES, EXPRESS, IMPLIED OR STATUTORY, INCLUDING, BUT NOT LIMITED TO, IMPLIED WARRANTIES OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, NON-INFRINGEMENT AND TITLE. OPERATOR DOES NOT WARRANT THAT THE PORTAL, ITS SERVERS, OR ANY MESSAGES SENT BY OR ON BEHALF OF OPERATOR ARE FREE OF VIRUSES OR OTHER HARMFUL COMPONENTS. ALL DISCLAIMERS OF ANY KIND ARE MADE FOR THE BENEFIT OF BOTH OPERATOR AND ITS AFFILIATES AND THEIR RESPECTIVE SHAREHOLDERS, MEMBERS, DIRECTORS, OFFICERS, EMPLOYEES, AFFILIATES, AGENTS, REPRESENTATIVES, LICENSORS, SUPPLIERS AND SERVICE PROVIDERS (COLLECTIVELY, THE "AFFILIATED ENTITIES"), AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

While Operator tries to maintain the timeliness, integrity and security of the Portal, Operator does not guarantee that the Portal is or will remain updated, complete, correct or secure, or that access to the Portal will be uninterrupted. The Portal may include inaccuracies, errors and materials that violate or conflict with the Terms. You also agree and acknowledge that from time to time the Portal may be inaccessible or inoperable for any reason, including,



without limitation: (i) equipment malfunctions, (ii) periodic maintenance procedures or repairs which may be undertaken from time to time, or (iii) causes which are beyond Operator's control or which are not reasonably foreseeable.

TO THE FULLEST EXTENT PERMITTED UNDER APPLICABLE LAW, NEITHER OPERATOR NOR ANY REPRESENTATIVE OF OPERATOR, WILL BE LIABLE FOR ANY INDIRECT, INCIDENTAL, PUNITIVE, SPECIAL, EXEMPLARY OR CONSEQUENTIAL DAMAGES OF ANY KIND, UNDER ANY CONTRACT, TORT (INCLUDING NEGLIGENCE), STRICT LIABILITY OR OTHER THEORY, INCLUDING DAMAGES FOR LOSS OF PROFITS, USE OR DATA, LOSS OF OTHER INTANGIBLES, LOSS OF SECURITY OF MATERIALS (INCLUDING UNAUTHORIZED INTERCEPTION BY THIRD PARTIES OF ANY MATERIALS), EVEN IF ADVISED IN ADVANCE OF THE POSSIBILITY OF SUCH DAMAGES OR LOSSES. WITHOUT LIMITING THE FOREGOING, OPERATOR WILL NOT BE LIABLE FOR DAMAGES OF ANY KIND RESULTING FROM YOUR USE OF OR INABILITY TO USE THE PORTAL OR FROM ANY PRODUCTS, SERVICES OR THIRD PARTY MATERIALS, INCLUDING FROM ANY VIRUS OR OTHER HARMFUL CODE THAT MAY AFFECT YOUR COMPUTER EQUIPMENT OR OTHER PROPERTY BASED ON YOUR ACCESS TO, OR USE OF, THE PORTAL. YOUR SOLE AND EXCLUSIVE REMEDY FOR DISSATISFACTION WITH THE PORTAL OR ANY PRODUCTS, SERVICES OR THIRD PARTY MATERIALS IS TO STOP USING THE PORTAL. THE MAXIMUM AGGREGATE LIABILITY OF OPERATOR FOR ALL DAMAGES, LOSSES AND CAUSES OF ACTION, WHETHER IN CONTRACT, TORT (INCLUDING NEGLIGENCE) OR OTHERWISE, SHALL BE THE GREATER OF: (A) THE TOTAL AMOUNT, IF ANY, PAID BY YOU TO OPERATOR SOLELY FOR THE RIGHT TO USE THE PORTAL DURING THE TWELVE (12) MONTHS PRECEDING THE DATE ON WHICH THE APPLICABLE CLAIM AROSE; OR (B) TEN U.S. DOLLARS (\$10.00). ALL LIMITATIONS OF LIABILITY OF ANY KIND ARE MADE FOR THE BENEFIT OF BOTH OPERATOR AND THE AFFILIATED ENTITIES, AND THEIR RESPECTIVE SUCCESSORS AND ASSIGNS.

CERTAIN STATE LAWS DO NOT ALLOW LIMITATIONS ON IMPLIED WARRANTIES OR THE EXCLUSION OR LIMITATION OF CERTAIN DAMAGES. SOME OR ALL OF THE ABOVE DISCLAIMERS, EXCLUSIONS, OR LIMITATIONS MAY NOT APPLY TO YOU, AND YOU MIGHT HAVE ADDITIONAL RIGHTS.

## **Termination**

These Terms are effective until terminated. You agree that Operator, in its sole discretion, may terminate or suspend your access to the Portal or use of the Portal for any reason, including, without limitation, if Operator believes that you have violated or acted inconsistently with the letter or spirit of the Terms. You agree that any termination of your access to the Portal under any provision of these Terms may be effected without prior notice, and acknowledge and agree that Operator may bar any further access to your account or the Portal. Upon any such termination or suspension, your right to use the Portal will immediately cease, and Operator may, without liability to you or any third party, immediately deactivate or delete your user name, password and account, and all

associated materials, without any obligation to provide any further access to such materials.

## **Indemnification**

To the fullest extent permitted under applicable law, you agree to defend, indemnify and hold harmless Operator, the Affiliated Entities, and each of their respective Representatives, from and against any claims, demands, losses, damages, fees, or penalties, and the cost to investigate and defend the same (including reasonable attorneys' fees), any federal or state agency or any third party, due to, arising out of or relating to (A) your access to or use of, or activities in connection with, the Portal (including Submissions), (B) any breach or alleged breach of these Terms by you, or (C) any violation or alleged violation of any law by you or anyone accessing this Portal on your behalf.

The Terms and the relationship between you and Operator shall be governed by the laws of the United States and the State of California without regard to its conflict of law provisions.

## **General Terms**

The Terms, including any terms and conditions incorporated in these Terms, constitute the entire agreement between you and Operator with respect to its subject matter, and supersede any and all prior or contemporaneous written or oral agreements or understandings between you and Operator relating to such subject matter. The failure of Operator to exercise or enforce any right or provision of the Terms shall not constitute a waiver of such right or provision. Nothing contained in these Terms shall be construed as conferring by implication, estoppel or otherwise any license or right under any patent or trademark of Operator or any third party.

These Terms do not, and shall not be construed to, create any partnership, joint venture, employer-employee, agency or franchisor-franchisee relationship between you and Operator. If any provision of these Terms is found to be unlawful, void or for any reason unenforceable, that provision will be deemed severable from the Terms and will not affect the validity and enforceability of any remaining provision. You may not assign, transfer or sublicense any or all of your rights or obligations under the Terms without Operator's express prior written consent. Operator may assign, transfer or sublicense any or all of Operator's rights or obligations under the Terms without restriction. No waiver by either party of any breach or default under the Terms will be deemed to be a waiver of any preceding or subsequent breach or default. Any heading, caption or section title contained in these Terms is for convenience only, and in no way defines or explains any section or provision. All terms defined in the singular shall have the same meanings when used in the plural, where appropriate and unless otherwise specified. Any use of the term "including" or variations thereof in the Terms shall be construed as if followed by the phrase "without limitation." Notices to you (including notices of changes to the Terms) may be made via posting to the Portal or by e-mail (including in each case via links), or by regular mail. Without limitation, a printed version of the Terms and of any notice given in electronic form



shall be admissible in judicial or administrative proceedings based upon or relating to the Terms to the same extent and subject to the same conditions as other business documents and records originally generated and maintained in printed form. Operator will not be responsible for any failure to fulfill any obligation due to any cause beyond its control.

Walmart Brand Portal © 2021 Walmart Inc. All rights reserved.