



IPL GFR TERMS AND CONDITIONS FOR THE PURCHASE OF GOODS

1 Definitions

- (a) In these **conditions**, the words and phrases shown in bold will have the following meanings.
- Break** means to breach a **contract** (in other words, anything you do or fail to do in relation to a **contract** that will give us a right to take action against you).
- Code** means the Groceries Supply Code of Practice and relevant conditions of the Groceries (Supply Chain Practices) Market Investigation Order 2009.
- Conditions** means these conditions of purchase which we may amend from time to time.
- Contract** means a contract between the **parties** under which **you supply us** with any volume or type of **goods** which we intend to sell. A contract is made up of these **conditions**, the **policies**, the **IPL supplier guide**, the **policies** and any commercial terms agreed between the **parties**.
- De-list** has the meaning given to it in the **code**.
- Goods** means any goods and services which are covered by any given **contract**.
- Groceries** has the meaning given to it in the **code**.
- Insolvency event** means a situation where a **party** cannot pay its debts as they fall due, has a petition for winding up or an administration order presented against it or passes a resolution for winding up or calls any meeting of its creditors or proposes to make any arrangement with its creditors, has a receiver (administrative or otherwise) or an administrator appointed over all or any part of its business or assets, goes into liquidation or if any of the above circumstances become reasonably likely to happen.
- Intellectual property rights** means all intellectual property or industrial rights of any type in any state or country, whether registered or unregistered. This includes all applications (or rights to apply) for, and renewals or extensions of, these rights and all similar or equivalent rights or forms of protection which exist now or will exist in the future in any part of the world.
- IPL** means International Procurement and Logistics Limited, also referred to in these **conditions** as **us**, **we** and **our**.
- IPL supplier guide** means the **policies** and any supplier guide(s) (which we may amend from time to time) published on our website and/or provided to you in hard or softcopy.
- Keep to** means to comply with (in other words, to obey and act in line with).
- Loss** means any liability, loss (including loss of profit and any other loss), damage, interest-charge, cost or expense (including legal and other professional fees and expenses).
- Party** means **you** or **us** as the named parties to a **contract** and includes **your** or **our** representatives and any other person **we** are allowed to assign (transfer) a **contract** or **our** business to.
- Policies** means the policies, requirements and instructions detailed at Section 2 (which we may amend from time to time).
- Price** means the price for the **goods** as agreed between the **parties** as part of a **contract**.
- Promise** means to guarantee or ensure that.
- Reasonable notice** has the meaning given to it in the **code**.
- Specification** means any specification or description of any **goods** we have agreed with you as part of a **contract**.
- Supplier** means the business, organisation or person identified as the supplier in any **contract**, also referred to in these **conditions** as **you** and **your**.
- VAT** means value added tax and any similar replacement or other tax.
- Walmart-branded goods** means any goods carrying the "Asda", "George" or "Walmart" brands or any other brand or trade mark (whether registered or unregistered), belonging to or controlled by or under the direction of a **Walmart company**.
- Walmart company** means any holding company of IPL, and any holding company or subsidiary of such holding company, and any subsidiary of IPL for the time being (as these terms are defined in section 1159 of the Companies Act 2006) and any other third party for whom we procure **goods** and/or services under a **contract**.
- (b) Any reference to a person in these **conditions** includes natural people, firms, partnerships, corporate bodies and corporations, associations, organisations, governments, states, foundations, trust and other unincorporated bodies (whether or not they have a separate legal personality and no matter what country or state they are based in or come from).
- ### 2 Our obligations to groceries suppliers under the code
- (a) The **code** is fully incorporated into any **contract** for supplying **groceries** for resale in the United Kingdom by Asda Stores Limited. If there is any conflict between the terms of that **contract** and the **code**, the terms of the **code** will apply for those supplies.
- (b) In the rest of this condition 2, terms that are shown in bold and which are not included in the definitions above, will have the meaning given in the **code**.
- (c) In line with the **code**, if you supply **groceries** to us for resale in the United Kingdom by Asda Stores Limited the following will apply:
- We** will at all times manage our trading relationship with **you** fairly and lawfully, and in good faith.
 - All records relating to a **contract** which **we** hold are available to **you** if **you** ask.
 - If any further agreements or arrangements are agreed between the **parties** over the phone or face-to-face, **we** will confirm the terms of the arrangements in writing within three working days.
 - We** will not vary a **contract** to take effect from a date in the past.
 - We** will settle all payments in line with the terms of a **contract** and without delay.
 - We** will only **require you** to make significant changes to the supply chain procedures if **we** have given **you reasonable notice** in writing. Otherwise **we** will fully compensate you for any loss **you** reasonably suffer as a direct result of those significant changes.
 - We** may give **you** forecasts which **we** have prepared in good faith and in agreement with **you** (which **we** may amend from time to time). Forecasts are not binding so do not form any kind of contract. **You** accept that **you** will not be entitled to compensation for any loss which **you** may suffer as a result of any forecasting mistake **we** may make.
 - We** will not ask **you** for payment to stock, list or better position the **goods** unless the payment is either:
 - in relation to a **promotion** (for which **we** can **require you** to give **us** up to 50% of the **promotion** costs); or
 - for **goods** **we** have not stocked for the previous 365 days in 25% or more of **our** stores (this payment is a reasonable estimation of **our** risk of stocking the new **goods**); or
 - for both of these reasons.
 - If **we** hold a **promotion**, **we** will give **you reasonable notice** in writing and **we** will take care not to over-order the **goods** for the **promotion**. If **we** do over-order the **goods**, **we** will pay **you** compensation as set out in clause 14 of the **code**.
 - We** will not ask **you** for compensation for **shrinkage**.

- We** will not ask **you** for compensation for **wastage** unless it becomes clear after delivery that any of the **goods** do not **keep to** and fulfil any of the **promises** shown in condition 10, which **we** will treat as negligence or default on **your** part.
- From time to time, **we** may ask **you** to pay all or part of:
 - the costs of artwork or packaging design, consumer or market research, store opening or refurbishment;
 - the costs of hospitality or visiting **your** premises; and
 - the costs of delivering sample products to **us**, although **we** may not always return the samples to **you**.
- We** will only **require you** to get goods or services from another person in specific circumstances as set out in clause 11 of the **code**. Where **we** recommend that **you** obtain goods or services from another person, if **you** have an alternative source for those goods or services, please let **us** know and **we** will consider them.
- You** agree that **you** are liable for all costs set out in the **IPL supplier guide** that result from something **you** have done or something **you** have failed to do in line with **your** obligations under a **contract** including, but not limited to, costs arising from dealing with customer complaints (as set out in clause 15 of the **code**) and costs resulting from product withdrawals or recalls.
- We** will use **our** right to carry out an audit in line with any relevant agreement with the Groceries Code Adjudicator.
- If **we** have to **de-list you** as a **supplier**, **we** will only do this for genuine commercial reasons (which includes all circumstances in condition 11(c)) and will give **you** **reasonable notice** and written reasons of **our** decision as set out in clause 16 of the **code**.
- We** will make **you** aware of any changes to the identity and contact details of **your** **senior buyer**.
- We** will sort out any **dispute** arising in connection with a **contract** using the dispute resolution scheme set out in the **code**.

3 Commitment to purchase and excluding other terms

- (a) Unless **we** agree otherwise in writing, **we** do not have to buy any **goods** from **you** (in other words, there will be no related binding contract) until **we** have given **you** a purchase order for the **goods**.
- (b) At the point that a **contract** is agreed (when the **parties** agree its contents in writing), **you** agree to **keep to the contract** and that no other terms and conditions (including **your** standard terms and conditions or those implied by trade, custom, practice course or dealing) will apply unless **we** have agreed another arrangement in writing which is signed by a Director of IPL.

4 Important conditions

- (a) **You** accept that time is of the essence in carrying out **your** obligations under a **contract**. We will treat any failure by **you** to meet **your** deadlines as a material **break of a contract**.
- (b) **You** agree that nothing in any **contract** between the **parties** means **you** will supply **goods** to us exclusively.
- (c) The **IPL supplier guide** and the **policies** form part of each **contract**. **You** must **keep to** and fulfil their terms as part of the **promise you** are giving **us** in condition 10(a).
- (d) Forecasts are not binding so do not form any kind of **contract**.

5 Delivery

- (a) **You** must deliver the **goods** to **us** in line with the terms of the relevant **contract** and the **IPL supplier guide**.
- (b) The **goods** will be treated as being delivered to **us** when **we** have given **you** proof of delivery documents.
- (c) Unless **we** agree as part of the relevant **contract**, **you** may not deliver **goods** in instalments. If **we** do agree to **you** making the delivery in instalments, the **goods** will be treated as being delivered to **us** when **we** have given **you** proof of delivery documents on the date of the final instalment.
- (d) If the **goods** (or part of them) do not match a **contract** or a **specification**, **we** may refuse all of part of that delivery of the **goods**.

6 Legal ownership and risk

- (a) Legal ownership of the **goods** will pass to **us** when the **goods** are delivered to **us**, or collected by **us**, or when **we** pay for them, whichever is earlier.
- (b) Risk in the **goods** will pass to **us** when they are in our possession.
- (c) Any returns of **goods** (including **goods** that have been rejected, withdrawn or recalled) will be at **our** risk only while they are in **our** possession. If **we** have paid for the **goods**, **we** will keep legal ownership of them until **you** have refunded to **us**, in cleared funds, the full **price** for the **goods**.

7 Price and VAT

- (a) The **price** includes all costs including, but not limited to, all customs duties, import and export charges, taxes (except VAT), delivery, transport, loading and unloading costs, packaging costs, insurance, parts, labour costs and expenses.
- (b) All amounts due under a **contract** will not include VAT unless **we** agree otherwise with **you** in writing. If **we** owe **you** VAT, **we** will pay that VAT to **you** after receiving a valid VAT invoice from **you**. If **we** incorrectly pay VAT to **you**, when **we** ask **you** to refund it, **you** must do so promptly.

8 Payment

- (a) Payment will be made in line with the requirements of Section 1.
- (b) **You** may invoice **us** for the **goods** when they have been delivered, as decided in line with condition 5. **We** will treat any invoice issued before the date of delivery as not valid and **we** will not pay it, unless **we** agree otherwise in writing.
- (c) If **we** disagree with an invoice, **we** do not have to pay the disputed amount until the dispute is resolved.
- (d) If **you** owe **us** money in relation to any contract or otherwise, without affecting **our** other rights or remedies, **we** can use the amount **you** owe **us** to pay off any amount **we** may owe **you**. **You** are not entitled to do the same. If **you** have a credit balance, **you** must pay it to **us** as soon as **we** ask.
- (e) Interest will be charged on any amount that is not paid by **you** or **us** on the relevant due date. Interest builds up each day from the original due date for payment until the actual date the overdue amount is paid at a rate equal to 2% a year above the base lending rate of the Barclays Bank plc. The interest will be paid together with the overdue amount. The obligation to pay interest will not apply to payments which are being disputed in good faith.

The **parties** agree that the level of interest due is a substantial contractual remedy for the purposes of the Late Payment of Commercial Debts (Interest) Act 1998 (as amended).

9 Right to audit

- (a) **We**, or an agent on **our** behalf, have the right during normal working hours to audit the way **you** are carrying out **your** obligations under a **contract** and to identify any problems with payments whether arising from incorrect invoicing, incorrect payments or otherwise. **You** agree to co-operate with any audit and if **we** ask, give **us** access to **your** staff, systems, premises and relevant documents (at **your** cost).
- (b) Where possible, **we** will give **you** reasonable notice of **our** intention to carry out an audit. However, **we** do not have to give **you** notice if **we** have concerns about the safety or source of any **goods** or where **we** believe that **you** have caused a **break** in a **contract**.
- (c) If any audit confirms that **you** owe **us** money, **you** must promptly, if **we** demand, refund **us** the amount plus any interest worked out at the rate shown in condition 8(e).
- (d) This condition 9 will apply no matter when the **break** or error happened or what period of time has passed.
- (e) **Our** right to audit set out in this condition 9 is separate from and applies as well as any audits that are referred to in the **IPL supplier guide**.

10 Representations and material conditions

- (a) Each **party** **promises** to the other that it will **keep to** and fulfil its obligations under each **contract**.
- (b) **You** **promise** that **you** will fully **keep to** all laws, regulations, codes of practice and government orders which apply to each **contract** including, but not limited to, those relating to tax, data protection and privacy, exchange controls, customs matters, anti-bribery and anti-corruption, anti-trust, anti-money laundering, trade sanctions and criminal matters.
- (c) **You** **promise** that:
- all **goods** supplied to **us** correspond with any relevant **specification** or sample, are fit for purpose and are of satisfactory quality and are supplied in line with the relevant **contract**, and are free from all defects;
 - you** will **keep to** and fulfil **your** obligations under the **core policies**;
 - by supplying the **goods**, **you** are not infringing the **intellectual property rights** of any other person; and
 - you** have all necessary licences, permissions, authorisations, permits and warranties needed to allow **you** to supply the **goods** to **us** for future sale by **us**.
- (d) **You** acknowledge and agree that a **break** of any of the conditions in this condition 10 will give **us** the right to claim under a **contract** for any **loss** **we** suffer as a result.

11 Actions we can take if you break a contract

- (a) If **you** **break** any of the terms of a **contract**, **we** may:
- end all or part of the **contract** immediately;
 - refuse to accept any future deliveries of the **goods** which **you** try to make under that **contract**; and
 - claim compensation from **you** for any **loss** **we** suffer, including any costs **we** have to pay in getting suitable replacement **goods** from another person.
- (b) If the **goods** do not **keep to** and fulfil the **promises** set out in condition 10(c), **we** may reject all or any of the **goods** and within five working days of receiving **our** notice of rejection (or any longer period as may be agreed in writing between the **parties**), **you** must (as **we** decide):
- fix the rejected or faulty **goods**; or
 - supply replacement **goods** (the replacement **goods** will be governed by the same **contract**); or
 - refund to **us** any **price** **we** have paid for those **goods**; and
 - instruct **us** on how to dispose of, store or return the **goods** (at **your** cost); otherwise **we** will deal with the **goods** as **we** see fit and at **your** expense.
- (c) **We** may immediately end all or part of the **contract** and any other **contract** with **you**, and immediately **de-list** **you** by giving **you** written notice if **you** do any of the following:
- materially or repeatedly **break** the terms of that **contract**;
 - break** **your** obligations in any **contract** relating to the safety or source of the **goods**;
 - become controlled or owned by a different person than the one that controlled or owned **you** at the date of that **contract**;
 - suffer an **insolvency event**;
 - do something, or are alleged to have done something which could damage or has damaged **our** or any **Walmart company's** brand, reputation or goodwill; or
 - commit, or are alleged to have committed an act of bribery, corruption or fraud.
- (d) All of the rights and action **we** can take listed in this condition 11 will not affect any other rights or action **we** may have, or could take, under any given **contract** or any law, whether or not **we** have accepted the **goods**.

12 General rights and consequences of ending a contract

- (a) Either **party** may issue a notice that brings a **contract** to an end immediately if the other stops trading or suffers an **insolvency event**. If **you** suffer an **insolvency event**, **we** will have the right to take possession of any **goods** for which **we** have previously paid for but which have not yet been delivered to **us**. To make sure **we** can enforce this condition, **you**, or **your** representatives, must give **us** access to any relevant premises used for storing the **goods**.
- (b) If a **party** ends a **contract**, it will not affect its rights and actions which have built up before the **contract** is ended or the validity of any debt or liability which is owed by one **party** to the other before the **contract** is ended.
- (c) Any condition of any relevant **contract** which (expressly or impliedly) continues to apply after the **contract** is ended (including, but not limited to, conditions 1, 8, 9, 11, 12, 13, 14, 15, 16 and 17) will do so with full force and effect.

13 Liability

- (a) The **parties** agree that nothing in any **contract** is intended to exclude or limit either **your** liability or **our** liability for:
- death or personal injury; or
 - fraud, including a fraudulent misrepresentation.
- (b) Neither **party** will have any liability in **contract** or otherwise arising out of or in connection with a **contract** for any indirect or consequential **loss**.
- (c) **We** will have no liability for any claim against **us** in relation to the **goods** or any **contract** if **you** have not given **us** written notice of the claim within two years of the earlier of:
- the cause of action arising; or
 - the date on which **you** should have reasonably been expected to be aware of the claim.
- (d) In terms of any **contract**, **we** will have no liability (apart from for fraudulent misrepresentation) for any statement made by **us** or by any other person on **our** behalf, before the date of that **contract**.
- (e) **You** must indemnify (protect) **us** fully against any **loss**, claim or action **we** may suffer in relation to the **goods** including but not limited to:
- to do with **your** supply of the **goods**;
 - to do with **our** onward sale of the **goods**;

- relating to the safety, source or quality of the **goods**;
- relating to infringing another person's **intellectual property rights**; or
- relating to any liability under the Consumer Protection Act 1987, whether or not **you** or **we** would predict that the damage could happen.

14 Insurance

- (a) **You** must have insurance policies in place with a reputable insurance company covering at minimum:
- employer's liability at the minimum level legally required where **you** operate;
 - public liability to an adequate level to cover **your** liabilities (we would expect this to be a minimum limit of £5,000,000 (five million pounds sterling) for each incident); and
 - product liability with a minimum limit of at least £5,000,000 (five million pounds sterling).
- (b) **You** must make sure that all insurance policies contain an 'indemnity to principal' clause (meaning that if, because of **your** negligence, a claim is made against **us** by another person, **your** insurer must cover that other person's **loss** as well as **our** **loss**).
- (c) **You** agree to promptly provide copies of **your** insurance policies to **us** if **we** ask.

15 Confidentiality

- (a) The **parties** agree:
- to keep confidential any information, which by its nature is confidential, gained or received from the other in relation to **you** supplying the **goods** and each **contract**; and not to use the confidential information without the other's permission or reveal it to anyone else (including employees, agents, or subcontractors) or allow anyone else to do so, except as strictly necessary to carry out a responsibility under the **contract** and only as long as the other person meets the same level of confidentiality as set out in these **conditions**.
- (b) This restriction does not apply to information which:
- is generally available to the public (unless that public availability was caused by either **party** failing to keep the information confidential);
 - was already known to the person receiving it (unless they are already bound by an obligation to keep that information confidential); or
 - the person receiving it is required by a court order or other legal obligation to reveal it.
- (c) **You** agree that **you** must not publicise any **contract** or **your** relationship with **us** (including using **our** name or logo on any supplier website or literature or any other depiction of **IPL** in any media format) unless **we** have given **our** written permission beforehand for that publicity.

16 Intellectual property rights

- (a) All **intellectual property rights** in anything that **we** supply to **you** will be and will stay **our** property.
- (b) All new **intellectual property rights** in anything that **you** develop, or which are developed on **your** behalf, specifically to meet **your** obligations under a **contract** will be **our** property. **You** must transfer all **intellectual property rights** to **us** in full using a current assignment of future rights (the law describes this as being a transfer made with full title guarantee) which will apply from the date on which any relevant material or data is created.
- (c) **You** **promise** that immediately before **you** transfer any rights to **us** under condition 16(b), **you** were the only legal and beneficial owner of all **intellectual property rights** in the materials or information. **You** acknowledge and agree that any **break** of this condition 16(c) will give **us** the right to claim under a **contract** for any **loss** **we** suffer as a result.
- (d) If **we** ask, **you** must do whatever is necessary (including signing any relevant document or granting any relevant power of attorney) to transfer any **intellectual property rights** needed to bring condition 16(b) into effect.
- (e) If **you** supply **Walmart-branded goods**, **you** must only apply branded labeling that has been approved by **us** in writing. **You** must not supply **Walmart-branded goods** to another person without first getting **our** written permission. **You** agree to remove (at **your** own cost) all **Walmart company** labels, price labels, trademarks and other distinguishing marks from the **goods** before **you** supply the **goods** to another person.
- (f) **You** permanently agree not to enforce any moral rights **you** may have in terms of Chapter IV of Part 1 of the Copyright, Designs and Patents Act 1988 in relation to any materials or data falling within the scope of condition 16(b), and any similar rights available in any part of the world. **You** must make sure that all of **your** employees, any relevant other person and any relevant subcontractors agree the same.

17 General

- (a) The **parties** agree that any notice issued under a **contract** must be made in writing and will be treated as having been received two days after the date on which it was posted or, in the case of email, at the time it was sent (if the email is received after 5pm on a working day, it will be treated as being received on the next working day). Notices to **us** must be sent to the Company Secretary, IPL, Unit 1, Foxbridge Way, Normanton, WF6 1TN.
- (b) **You** agree that **you** are an independent contractor with **your** own separate legal identity. **You** agree that any **contract** does not create any partnership or joint venture between the **parties** and **you** have no right to **contract** in **our** name or make any **promises** on **our** behalf.
- (c) **You** will be fully responsible for the actions and failings of any subcontractor that **you** use to fulfil **your** obligations under a **contract**.
- (d) Except as set out at condition 17(e), none of these **conditions** are intended to give a benefit to, or be enforceable by, any person who is not a **party** to a **contract** (whether under the contracts (Rights of Third Parties) Act 1999 or otherwise).
- (e) Any **Walmart company** that suffers a **loss** if **you** **break** a **contract** may enforce any rights it would have as a **party** to that **contract**.
- (f) If either **party** fails to enforce any of the conditions of a **contract**, it does not mean that it cannot do so in the future. If **we** do not take action against **you** for committing a **break** in a **contract** or for any delay or failure to meet **your** obligations under a **contract**, it does not mean **we** will allow the same in the future.
- (g) If any of these **conditions** (or part of them) cannot be enforced or is not valid, the remaining **conditions** will still apply in full.
- (h) **You** must not transfer in any way a **contract** or any right or obligation under a **contract** without first getting **our** written permission. **We** may transfer a **contract** without **your** permission to any holding company of **IPL**, any holding company or subsidiary of that holding company, and any subsidiary of **IPL** (these terms are defined in section 1159 of the Companies Act 2006).
- The UN Convention for the International Sale of **goods** will not apply unless **we** agree it does in writing.
 - Each **contract** and any associated obligations will be governed by the laws of England and Wales and any disputes will be dealt with exclusively with by the courts of England and Wales, except that **we** or another **Walmart company** have the right to take legal action in another country if **we** or they consider it to be necessary.
 - If **you** provide any services to **us** apart from or as well as supplying **goods**, **you** agree that the **Service Provision Terms** defined in Section 2 will apply.
 - The UN Convention for the International Sale of Goods shall not apply to the Agreement.