

## Virginia WIC Program's RETAILER AGREEMENT

The purpose of this Agreement is to authorize retail stores to accept Virginia WIC food instruments in compliance with federal, state and WIC Program regulations, rules and policies. Retail stores are eligible to accept WIC food instruments and cash value vouchers after receiving an Agency signed copy of this Agreement.

### Instructions

- ◆ Read all provisions, conditions and requirements outlined in this document.
- ◆ Read the acknowledgement section on the last page and complete Parts I and II on the last page.
- ✓ **PART I** - Legibly print the store's identifying information and sign the Retail Agreement. If a response does not apply, write in N/A (Not Applicable). The Retail Agreement must be signed by an authorized agent associated with the Retailer, i.e., owner, store manager, operations manager, etc. If you have questions about who is a valid authorized agent, please seek legal counsel. Please note that all stores and applicants must be authorized by the Supplemental Nutrition Assistance Program - SNAP (formerly known as Food Stamps) at the time this Agreement is submitted.
- ✓ **PART II** - Legibly print the store's identifying information in Part II. If two or more stores are applying that are owned by the same business entity, then attach a separate listing of these stores and check the box stating that a separate listing is attached. On the attachment include: full store name, county/city location, WIC ID number (4-digits) and SNAP number (7-digits). If you do not have a WIC ID number, leave this space blank. **Do not write on the attachment the names of any unauthorized store locations.** You must apply on-line, using an internet based system furnished by the State agency for these unauthorized store locations.
- ✓ **PART III**. This section will be completed by the WIC Program if the store is competitively selected. The start date of this Agreement may vary depending upon when a store is selected for authorization. The maximum duration of this Agreement is three years.
- ◆ Return all copies of the completed Agreement to the address below. Independent store(s) that are selected for authorization will be mailed an Acknowledgement Letter, along with a signed copy of this Agreement. The completed Retailer Agreement must be mailed to:

Attn: Vendor Compliance Team  
Virginia Department of Health  
Division of Nutrition, Physical Activity and Food Programs  
109 Governor Street, 9<sup>th</sup> Floor  
Richmond, VA 23219

Retailer/Applicants may contact the State WIC Program at 804-864-7800 and ask to speak with a representative from the Vendor Compliance Team, if you have any questions about this Agreement.



**SAMPLE**

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**VIRGINIA DEPARTMENT OF HEALTH**  
**Division of Nutrition, Physical Activity and Food Programs**  
**RETAILER AGREEMENT**

**A. SPECIAL SUPPLEMENTAL FOOD PROGRAM FOR WOMEN, INFANTS, AND CHILDREN (WIC) (7 CFR SECTION 246.12 & 12 VAC 5-195)**

This Agreement is between the named Retailer/Applicant stated on the last page (Acknowledgement section) herein referred to as the "Retailer," and the Commonwealth of Virginia, Department of Health, Division of Nutrition, Physical Activity and Food Programs, hereafter referred to as "WIC Program" and/or "State agency". The authorization status of this retailer is contingent upon it continuously and consistently meeting all **General Requirements and Conditions** identified in State regulations. This Retailer Agreement becomes effective **November 1, 2011** or the date when a store applicant has met all selection and authorization requirements. The expiration date of this Agreement is thirty-six (36) months from November 1, 2011 or the availability of the e-WIC system, whichever occurs first. For this Agreement to be valid a listing of the individual retail store locations and their corresponding WIC ID (stamp) number must be stated or attached to the signed Agreement.

*This Virginia WIC Program's Retailer Agreement does not constitute a license or a property interest.* If the retailer wishes to be authorized beyond the period of this Agreement, the retailer must reapply for authorization. If an individual retail store covered under this Agreement is disqualified and/or terminated, then the State agency will terminate only the individual store(s), not all other corporate stores. Conversely, if new store applicants are authorized after this Agreement is signed, these new store locations will be added to the existing Agreement.

This Agreement is pursuant to 42 U.S.C. Section 1786 and 7 CFR Part 246. Any revisions, amendments or modifications to the provisions of this Agreement shall be in writing. This Agreement shall be automatically amended upon notice from the State agency, should federal or state laws or regulations require amendments. The retailer agrees and covenants to the following sections:

**B. DEFINITIONS (12 VAC 5-195-30)**

For the purpose of this Agreement all references to "Retailer" or "Vendor" refers to individual retailer, applicant, or corporate retailer, unless stated otherwise.

1. **Individual Retailer/Applicant** means a sole proprietorship, partnership, cooperative association, corporation, or other business entity operating one store authorized by the State agency to provide authorized supplemental foods to participants. Each store operated by a business entity constitutes a separate retailer and must be authorized separately from other stores operated by the business entity.
2. **Corporate Retailer** means a single business entity operating two or more different store locations authorized by the State agency to provide authorized supplemental foods to participants. Each store operated by the business entity constitutes a separate retail store location and must be authorized separately from other stores operated and/or owned by the business entity.
3. All instances in this Agreement where "Food Instrument (FI)" is listed will also refer to Cash Value Voucher (CVV) as well. See the state and federal regulations for a definition of all terms used in this Agreement.
4. The WIC "Acronym" and the WIC "Logo" are registered service marks of the USDA for USDA's WIC, Registration Nos. 1,630,468 and 1,641,644, respectively, hereinafter referred to collectively as the "service marks."
5. All instance of using the term "participant" shall include parents, caretakers of an infant and child participants or proxies.

*Note: A comprehensive listing of commonly used terms may be found in the WIC Program Consolidated Regulations at USDA website (<http://www.fns.usda.gov/wic/lawsandregulations/default.htm>). The Virginia state regulations may be accessed through the Legislative Information System (<http://leg1.state.va.us/>). A copy of either of these federal or state regulations may be obtained by contacting the State agency.*

**C. GENERAL REQUIREMENTS AND CONDITIONS (12 VAC 5-195-300)**

1. All authorized retailers must consistently meet throughout the Agreement period all performance standards outlined in this agreement. Any retailer that fails to meet any of the standards outlined in this Agreement or in state regulations may have their WIC authorization status terminated.

**The Retailer shall:**

1. Comply with the terms of this Agreement, state and federal WIC Program statutes, rules, regulations, policies and applicable laws governing the Program, including any changes made during the Agreement period.

**D. ADMINISTRATIVE APPEAL PROCESS (12 VAC 5-195-320, 630, 650, 660 & 670)**

1. The retailer has a right to appeal State agency administrative actions as set forth in the Administrative Appeal section;
  - a. A Full Administrative Appeal Hearing shall be in accordance with the procedures outlined in the State WIC Program regulations and may also include an optional Informal Settlement Meeting.

**2. Adverse actions subject to a Full Administrative Appeal Hearing include:**

- a. Denial of authorization based on the application of the retailer selection criteria for competitive price, for minimum variety and quantity of authorized supplemental foods (§246.12(g)(3)(i) and (g)(3)(ii)) or on a determination that the retailer is attempting to circumvent a sanction (§246.12(g)(4));
- b. Denial of authorization based upon the retailer selection criterion for business integrity, for a current Supplemental Nutrition Assistance Program – (“SNAP” formerly known as Food Stamps) disqualification or civil money penalty for hardship (§246.12(g)(3)(iii) and (g)(3)(iv));
- c. Denial of authorization based on a State agency established retailer selection criterion if the basis of the denial is a retailer sanction or a SNAP withdrawal of authorization or disqualification;
- d. Denial of authorization based on the State agency’s Retailer Limiting criteria (§246.12(g)(2));
- e. Denial of authorization because a retailer submitted its application outside the timeframes during which applications are being accepted or processed as established by the State agency under (§246.12(g)(7));
- f. Termination of a Retailer Agreement because of a change in ownership, change in location or cessation of operations (§246.12(h)(3)(xvii));
- g. Termination of a Retailer Agreement for cause;
- h. Disqualification based on documented WIC Program violations;
- i. Disqualification based on a trafficking conviction (§246.12(1)(1)(i));
- j. Disqualification based on the imposition of a SNAP civil money penalty for hardship (§246.12(1)(2)(ii));
- k. Disqualification or civil money penalty imposed in lieu of disqualification based on a mandatory sanction imposed by another WIC State agency (§246.12(1)(2)(iii)); or
- l. Imposition of a fine or a civil money penalty in lieu of disqualification based on a Supplement Nutrition Assistance Program (formerly known as Food Stamp Program) disqualification under §246.12(1)(1)(vii).

**3. Adverse actions not subject to a Full Administrative Appeal Hearing include:**

- a. The validity or appropriateness of the State agency’s retailer limiting or selection criteria (§246.12(g)(2), (g)(3) and (g)(4));
- b. The validity or appropriateness of the State agency’s retailer peer group criteria and the criteria used to identify retailers that are above 50% Vendors or comparable to above 50% Vendors;
- c. The validity or appropriateness of the State agency’s participant access criteria and the State agency’s participant access determinations;
- d. The State agency’s determination whether a retailer had an effective policy and program in effect to prevent trafficking and that the ownership of the retailer was not aware of, did not approve of, and was not involved in the conduct of the violation (§246.12(1)(1)(i)(B));
- e. Denial of authorization if the State agency’s retailer authorization is subject to the procurement procedures applicable to the State agency;
- f. The expiration of the Retailer’s Agreement - If a retailer is not offered the opportunity to be reauthorized, the retailer must apply for authorization, and if denied, the retail store may then appeal the denied authorization decision. Such notification shall be provided to participating retail stores not less than fifteen (15) calendar days in advance of the Agreement expiration date;
- g. Disputes regarding food instrument payments and retailer claims (other than the opportunity to justify or correct a retailer overcharge or other error, as permitted by (§246.12(k)(3)));

**D. ADMINISTRATIVE APPEAL PROCESS** (12 VAC 5-195-320, 630, 650, 660 & 670) continued

- h. Disqualification of a retailer as a result of disqualification from SNAP (§246.12(l)(1)(vii));
  - i. The State agency's determination to include or exclude an infant formula source from the State agency's list of State-licensed wholesalers, distributors, and retailers, and infant formula manufacturers registered with the FDA;
  - j. The validity or appropriateness of the State agency's prohibition of incentive items and the State agency's denial of an above-50-percent retailer's request to provide an incentive item to customers; or
  - k. The State agency's determination whether to notify a store in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction.
4. If the Retailer does not request a Full Administrative Appeal Hearing then a disqualification becomes effective fifteen (15) calendar days after receiving written notice of the adverse action;
  5. If an applicant does not request an Informal Settlement Meeting and/or Full Administrative Appeal Hearing then a denied authorization decision becomes immediately effective after receiving written notice of the adverse action;
  6. If an authorized retailer under review for possible disqualification elects not to participate in an Informal Settlement Meeting, then the State agency will make its decision about participant access and impact based upon the information available to it; and
  7. A retailer being retained in lieu of disqualification by the WIC Program may elect to voluntarily withdraw rather than pay the State agency a civil monetary penalty fine. If the Retailer elects to voluntarily withdraw and not pay the civil monetary penalty fine then a disqualification status will still be identified on the State agency's records.

**E. COMMUNICATIONS** (12 VAC 5-195-290, 320 & 540)

**The Retailer shall:**

1. Provide at least fifteen (15) calendar day's written notice to the State agency if the retailer desires to terminate this Agreement and/or when the retailer ceases operations, changes ownership, or of any other circumstances that impacts service delivery, i.e., change in location, relocations, renovations, permanent and/or temporary closures, etc. This Agreement is null and void upon a legal change of ownership.
2. Distribute training materials to store management and personnel covered by this Agreement within the timeframe specified by the State agency;
3. Adhere to security protocol and requirements associated with using the Virginia Department of Health's internet-based application for submitting periodic pricing and application information; and
4. Restrict access to available internet based applications offered by the Virginia Department of Health to those individuals with authority to use this option.

**The State agency shall:**

1. Provide retailers and/or corporate retailers with Program updates, WIC approved food lists, Cashier Training Guides, copies of pertinent WIC Program Retailer guidelines, supplies, authorized rubber stamps and other educational materials; and
2. Provide retailers and/or corporate retailers with at least fifteen (15) calendar days written notice of program changes.

**F. COMPLAINTS** (12 VAC 5-195-450)

**The Retailer shall:**

1. Report any known or suspected program abuse by a WIC participant, local agency or WIC authorized/unauthorized retail stores to the State agency.

**The State agency shall:**

1. Follow up on submitted complaints and document said results in accordance with established policies and procedures.

**G. AGREEMENT, APPLICATION & ENROLLMENT** (12 VAC 5-195-300, 310 & 400)**The Retailer shall:**

1. Accept WIC food instruments at the store location covered by this signed Agreement only after receiving official written notification from the State agency granting authorization and a unique rubber stamp;
2. Provide the name and address of the retailer's primary formula supplier/distributor. This documentation must be sent at initial application or upon request by the State agency;
3. To solely purchase contract and special formulas from resources that are approved by the Virginia WIC Program to sell infant formula as identified from the WIC Program's approved infant formula distributor list (A copy of dated invoices with the supplier/distributor's name and a list of the formulas purchased may be requested by the State agency);
4. Notify in writing the State agency within fifteen (15) calendar days if the primary source of contract and special formula changes from what was previously reported as part of the application process; and
5. Ensure that no conflict of interest exists between any store personnel employed by the retailer and any local, state, or federal WIC agency/personnel. If any potential conflicts exist, then the Retailer must report any such instances to the State agency.

**The State agency shall:**

1. Randomly verify the accuracy of pricing, business integrity information, and other information used to evaluate a retailer's qualifications;
2. Establish and assign each authorized retailer to a specific peer group to effectively monitor and manage each store and its corresponding financial risk levels;
3. Assess an authorized retailer's peer group designation at any time during the Agreement period and place it in a peer group that is most comparable;
4. Immediately terminate this Agreement if it determines that the retailer has provided false and/or misleading information in connection with its application for authorization;
5. Reassess a retailer's authorization status at any time during the Agreement period to determine if it is the "best qualified" retailer using the Selection and Authorization criteria in effect at the time of the reassessment;
6. Terminate this Agreement for cause after providing advance written notice of a period of not less than 15 calendar days;
7. Terminate this Agreement if the State agency identifies a conflict of interest, as defined by applicable state laws, regulations, and policies, exists between the retail store and the State agency or its local agencies; and
8. Investigate any potential or actual conflict of interest between the retailer and WIC Program employee.

**H. MONITORING VISITS** (12 VAC 5-195-300, 310 & 580)**The Retailer shall:**

1. Mark the current shelf price of all WIC approved foods clearly on the foods, posted on the shelf or on the display case at all times;
2. Make available to the State agency, Agency Representative, the Virginia Department of Health, and the Comptroller General of the United States, at any reasonable time and place for inspection and audit, all food instruments in the retailer's possession and all program-related records;
3. Cooperate with state, local agency staff, Agency Representative, United States Department of Agriculture (USDA) officials, Comptroller General of the United States and appointed investigators to conduct audits, compliance purchases or other investigations;
4. Maintain inventory records used for federal tax reporting purposes for a minimum of two (2) calendar years; and maintain purchasing records (invoices) for a minimum of twelve (12) months.
5. Maintain and make available purchasing records to the State agency within fifteen (15) calendar days after receiving a written request. These purchasing records must show the source and date of all WIC approved foods and formulas purchased. Acceptable forms of purchasing records include wholesale receipts, cash and carry receipts, purchase orders, books of account, invoices that identify the quantity and prices of WIC foods, and other vital records that can substantiate the volume of WIC foods purchased and prices charged;
6. Provide the State agency, upon request, the following information: 1) quarterly or annual food dollar sales; 2) business license; 3) sanitation and inspection reports conducted by other governmental agencies;
7. Take necessary remedial action within an established timeframe on any problems noted during an on-site monitoring visit or telephone consultation; and
8. Cooperate with state, local, and/or Agency representatives conducting unannounced on-site monitoring/compliance visits used to determine compliance with WIC Program requirements.

**H. MONITORING VISITS** (12 VAC 5-195-300, 310 & 580) continued**The State agency shall:**

1. Monitor the retailer's operation for compliance with Program requirements and regulations, which shall include but are not limited to price verification, minimum stocking requirement, proper and consistent use of "WIC Designated" shelf labels, and food instrument redemption procedures. These monitoring activities can be completed through observation while conducting on site stocking visits by trained Agency Representatives, unannounced covert visits, analyzing data, follow-up actions taken on submitted complaints, compliance buys, training buys, review of redeemed FIs, and/or inventory audits.

**I. REIMBURSEMENT** (12 VAC 5-195-340 & 590)**The Retailer shall:**

1. Follow the procedures outlined in the Cashier Training Guide, including but not limited to "How to Accept A WIC Food Instrument" and "How to Accept a WIC Cash Value Voucher";
2. Accept food instruments for only WIC authorized supplemental foods, contract and non-contract formulas listed on the FI as redeemable at retail stores;
3. Accept food instruments and cash value vouchers from participants, parents, caretakers of an infant and child participants or proxies only within the allowed time limit stated on the food instruments and deposit (and re-deposit, if applicable) food instruments for payment within the allowed time limit (14 calendar days from the last date of the "*Spend Check Between these Dates*" printed on the food instrument);
4. Sell to WIC participants only the designated brands for certain products subject to this restriction, as declared in the on-line Retail Store management System (RSMS);
5. Provide only the authorized foods listed on the food instrument; accurately determine the charges to the WIC Program for food items actually purchased; clearly print the payable amount in the area labeled "FILL IN AMOUNT OF SALE IN INK" on the food instrument prior to obtaining the participant's, parent's, proxy's or caretaker's signature; and obtain the signature in the presence of the cashier;
6. Provide only authorized food/formula items in exchange for WIC food instruments. (Retailer does not provide rainchecks and/or unauthorized foods/formulas in exchange for WIC food instruments);
7. Not provide substitutions, cash, credit, nonfood items, refunds or permit exchanges for authorized supplemental foods/formulas obtained with food instruments, except for exchanges of an identical authorized supplemental food item when the original authorized supplemental food item is defective, spoiled, expired or has exceeded its "sell by," "best if used by," or other date limiting the sale or use of the food/formula item. An identical authorized supplemental food/formula item means the exact brand and size as the original authorized supplemental food/formula item obtained and returned by the participant;
8. Neither seeks restitution from participants nor contact participants for food instruments not paid by the WIC Program and/or improperly accepted by the retailer. The retailer will not request a refund from WIC participants for food instruments determined by the State agency to be an overcharge or any other food instrument discrepancies that would cause a food instrument not to be paid;
9. Not contact participants and/or local agency regarding improperly accepted food instruments;
10. Confirm the WIC participants possess a WIC ID folder at the time when accepting food instruments. This is the sole participant identification that shall be used. Retailer must not request personal addresses and telephone numbers or require any identification card for the purpose of redeeming WIC food instruments other than the WIC identification (ID) folder.
11. Accept all date eligible food instruments that are issued to a participant. The retailer shall not limit the number of valid food instruments that an authorized participant may redeem at one time;
12. Accept no food instruments for more than the stated WIC Program maximum amount determined by the state;
13. Accept a reduced peer group payment for any food instruments identified as "unreasonable" by the State agency;
14. Accept food instruments in which neither the date, participant's name, family number, type, quantity or size of prescribed foods/formulas has been altered;
15. Submit pricing information on the State agency's internet-based application for all mandatory foods and formulas as defined for a retailer's peer group within two weeks after receiving a written request;
16. Not charge for improperly redeemed food instruments. The retailer may not charge participants, parents or caretakers of infant and child participants, or proxies for authorized supplemental foods obtained using food instruments;
17. Provide to the State agency prices for any food/formula item that will be sold to participants prior to redeeming food instruments with said products on it. Food instruments redeemed for products that have not been approved by the State agency as part of the prices submitted by the retailer will be considered overcharges and may be subject to being flagged as a "Vendor Claim";

**I. REIMBURSEMENT (12 VAC 5-195-340 & 590) continued**

18. Ensure that prices are accurately submitted for optional foods and formula products using the Retail Store Management system;
19. Ensure that the authorized WIC stamp is used only for the purpose and in the manner authorized by this Agreement and state regulations and assumes full responsibility for the unauthorized use of the authorized stamp issued to the retail store;
20. Secure written approval from the State agency to use any alternative stamp overlay automated process in lieu of an authorized stamp on deposited food instruments;
21. Prior to depositing all food instruments, imprint on the back of deposited food instruments the retailer's full trade name;
22. Submit a refund or adequate justification for any excessive charges when compared to prices submitted by the retailer and identified by the State agency;
23. Charge the WIC Program the lower price when the store's computer prices are higher than the posted shelf price;
24. Pay any administrative charges imposed by the State agency for additional processing expenses incurred by the WIC Program due to improperly deposited food instruments;
25. Not require participants to spend both FIs and CVVs at the same time;
26. Treat all participants in the same fashion by allowing WIC participants the same choices as non-WIC customers in purchasing fruits and/or vegetables according to the current Approved Food List;
27. Declare on the WIC Supplemental Information Form whether the store will allow WIC participants to pay the amount that exceeds the printed value of a CVV, including any applicable sales tax. Notify the State agency in writing of any changes to this administrative decision before the change is implemented; and
28. Remain price competitive when compared to other authorized stores that are located in the same peer group, even if actual payments to the retailer are within the maximum reimbursement level applicable to the retailer.

**The State agency shall:**

1. Ensure prompt direct deposit to the retailer's account for all properly executed food instruments;
2. Make price adjustments to the reimbursement paid to retail stores in order to ensure individual store's reimbursement levels remain eligible for authorization, based upon competitive prices charged by stores assigned to the same peer group;
3. Identify retailers who fail to consistently use their assigned authorization stamp on deposited food instruments and take administrative actions including termination of the retailer's authorization;
4. Use non mandatory prices that have been submitted by retailers via the RSMS for other business requirements. For example, the State Agency uses an internet-based application system "Authorized Store Locator (ASL)". Prices submitted via RSMS are used in the ASL application to identify stores that sell optional "WIC Approved" items. ASL is used by local agency staff and other interested parties to identify stores that sell optional items; and
5. Ensure the maximum pricing levels used are reasonable for the food/formula items prescribed for purchase by participants.

**J. OPERATIONAL ISSUES (12 VAC 5-195-300, 460, 500 & 580)****The Retailer shall:**

1. Meet, at all times, the minimum stocking requirement for the WIC approved food items, with prices plainly marked on the product or shelf or posted in the immediate area where the food items are kept;
2. Not charge sales tax on authorized supplemental foods obtained with a food instrument; Ensure no sales tax is charged for purchases using the CVV, except for the amount of purchase above the printed value of a CVV. Taxes charged for the amount exceeding the CVV must be paid by the WIC participant.
3. Secure written approval from the State agency of any internal/external promotional and/or advertising materials directed at WIC participants and/or the general public;
4. Post in a highly visible location a "WIC Accepted Here" window decal or alternative signage that has been approved by the State agency;
5. Ensure that participant information identified on the food instrument remains confidential and is not used for any purposes outside of the redemption and complaint handling processes;
6. Communicate in writing if the number of cash registers that can accept WIC transactions changes; and
7. Communicate in writing to the State agency, within 72 hours, any substantial changes in a store's reported hours of operation, especially due to a local, state or federally declared emergency.



**The State agency shall:**

1. Establish the minimum stocking requirement for WIC approved food items and communicate to authorized stores and applicants any changes to this standard;
2. Ensure authorized stores comply with all operational requirements;
3. Confirm the number of cash registers that can accept WIC transactions is accurate; and
4. Ensure authorized stores and applicants consistently meet all WIC Program authorization requirements as outlined in the Vendor Manual, Retailer Agreement, policies and procedures, state and Federal regulations.

**K. STORE TRAINING (12 VAC 5-195-520)****The Retailer shall:**

1. Annually accept training and instructions, in accordance with 246.12(i). Meet mandatory training requirements as established by the State agency within specific timeframes given to authorized stores;
2. Yearly, train cashiers and other staff on all program requirements and changes. The retailer understands that s/he is accountable for the actions of its owners, officers, managers, agents and employees who commit Program violations; and
3. Have WIC supplied materials translated into the appropriate language, if the retailer and/or staff are not fluent in English. Provide a translator to assist in on-site monitoring, annual training, Full Administrative Hearings or Informal Settlement Meeting, if applicable, to ensure that the retailer and all employees understand WIC Program guidelines, policies and procedures.

**The State agency shall:**

1. Provide training materials and supplies to retailers to meet annual and ongoing training requirements;
2. Document annual training requirement has been met for authorized stores;
3. Provide technical support to authorized stores, applicants and corporate contacts on training issues; and
4. Terminate the authorization status of any store that fails to meet the mandatory annual training requirements of the Program.

**L. SELECTION/AUTHORIZATION (12 VAC 5-195-280, 300, 360, & 610)****The Retailer shall:**

1. Remain in compliance with the Selection and Authorization criteria throughout the Agreement period, including any changes to the criteria. Using the current selection criteria, the State agency may reassess the retailer's authorization standing at any time during the agreement period. The State agency will terminate the retailer agreement if the retailer fails to meet the current retailer selection criteria. This includes but is not limited to remaining price competitive when compared to other retail stores assigned to its peer group;
2. Immediately inform the State agency if any owner or manager is convicted of a felony and if any person with business interest in the store operations is under investigation by SNAP;
3. Apply for reauthorization to the WIC Program prior to this Agreement expiring. And, if the retailer wishes to be reauthorized, s/he must do so within the designated time frame established by the State agency. Reauthorization of the Agreement will be based upon using the selection and authorization criteria as set forth in state regulations. Neither the State agency nor the retailer has an obligation to reauthorize a Retailer's Agreement with the WIC Program; and
4. Not have any owners, officers, or managers who in the last six years have been convicted of or had a civil judgement entered against them for any activity indicating a lack of business integrity, including, but not limited to, fraud, antitrust violations, embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, receiving stolen property, making false claims and obstruction of justice.

**The State agency shall:**

1. Select retailers within a designated city/county that are "best qualified" to provide WIC approved foods/formulas to eligible participants;
2. Ensure limiting criteria and selection process are consistently and fairly applied, if applicable;
3. Ensure that adequate participant access exists for participants to use their food instruments;
4. Ensure that authorized retailer's credentials meet Federal business integrity requirements; and
5. Terminate the retailer's agreement if a store is disqualified and the retailer will have to reapply in order to be authorized after the disqualification period is over. In all cases, the retailer's new application will be subject to the State agency's selection criteria and any limiting criteria in effect at the time of the reapplication.

**M. SANCTIONS/COMPLIANCE (12 VAC 5-195-600, 610 & 620)****The Retailer shall:**

1. Accept and be deemed to have consented to covert compliance buy monitoring in order to document level of program compliance;
2. Redeem food instruments for only the exact brand (if specified) or food type, size and quantity of the food items printed on the food instrument. The retailer acknowledges that any substitution of brand, type, size, or quantity may result in an overcharge, and reimbursement may be requested by the State agency;
3. Sell WIC approved foods/formulas to participants at or below the price charged to non-WIC customers;
4. Charge the WIC Program only for approved food/formula items actually sold to WIC participants;
5. Reimburse the WIC Program for any ineligible foods/formula purchased during a compliance investigation;
6. Be sanctioned for violations in accordance with the State agency's sanction schedule. Administrative actions taken by the State agency may include assessing monetary fines, WIC Program disqualification or paying a Civil Monetary Penalty (CMP) for retailers retained in lieu of disqualification;
7. Offer WIC participants, parents or caretakers of infant or child participants the same courtesies as offered to other customers and not distinguish or identify participants from other customers;
8. Permit participants to purchase WIC approved food/formula items without attempting to promote non-WIC purchases;
9. Require participants to purchase formula and infant cereal items (i.e., brand, quantity, type, size and form) exactly as prescribed on the food instrument;
10. Pay all State agency non-compliance fines and any interest on unpaid balances, if applicable;
11. Indemnify and hold harmless the State agency and the WIC Program for any losses incurred as a result of disqualification;
12. Understand that non-compliance with any of the requirements outlined in this Agreement may result in fines, Civil Money Penalties (CMPs) and/or disqualification from the WIC Program. Any retailer who commits fraud or abuse of the WIC Program is liable to prosecution under applicable Federal, state or local laws. A retailer who has willfully misapplied, stolen or fraudulently obtained program funds shall be subject to a monetary fine of not more than \$25,000 or imprisonment for not more than five years, or both, if the value is \$100 or more. If the value is less than \$100, then the penalty shall not be more than \$1,000, imprisonment for not more than one (1) year, or both;
13. Understand that a pattern of non-compliance documented from the compliance investigative process for federally mandated violations may result in a disqualification and a maximum civil monetary penalty fine of \$44,000 (if retained in lieu of disqualification) per investigation;
14. For disqualification or other adverse actions participate in an Informal Settlement Meeting prior to participating in a Full Administrative Appeal Hearing;
15. Understand that Food and Nutrition Service (FNS) shall disqualify the Supplemental Nutrition Assistance Program (SNAP) authorization of any retailer which is disqualified from the WIC Program. The retailer understands that SNAP disqualification will result in an immediate disqualification from the WIC Program. This reciprocal disqualification from SNAP to WIC or from WIC to SNAP may not be subject to administrative or judicial review; and
16. Understand that the State agency uses a multi-tier sanction system ranging from Class A - E violations. The State agency will take administrative action, including disqualification, assess fines and/or CMP. Documented non-compliance with WIC Program requirements that lead to disqualification may be waived by the State agency if it determines inadequate participant access would exist. A CMP will be assessed and paid by the Retailer in lieu of disqualification.

**The State agency shall:**

1. Assess sanctions and collect administrative fines, CMP fines, overcharges and Vendor Claims in accordance with Federal/state regulations and program policies and procedures;
2. Comply with the provisions as set forth in 42 C.F.R. §1786 and the regulations regarding criminal penalties and forfeitures;
3. The State agency shall notify a retailer in writing when an investigation reveals an initial incidence of a violation for which a pattern of incidences must be established in order to impose a sanction, before another such incidence is documented, unless the State agency determines, in its discretion, on a case-by-case basis, that notifying the retailer would compromise an investigation; and
4. The current sanction schedule is posted on the WIC Program's website and is also included in the State agency's Vendor Manual.

**N. SPECIAL TERMS AND CONDITIONS (12 VAC 5-195-580)**

**The Retailer shall:**

1. Understand that the rights and obligations established by this Agreement may not be transferred, or assigned by the retailer to any other third party; and
2. Understand that failure by the State agency to enforce any provisions outlined in this Agreement shall not be considered a waiver of these provisions or of the State agency right to enforce these provisions at a later time and shall not invalidate the remainder of the Agreement. If any of the provisions of this Agreement are or become invalid to any extent, the other provisions of this Agreement shall not be affected thereby. In the event of invalidity of a provision, the parties agree to accept a provision, which reflects as closely as possible the intention of the invalid provision.

**The State agency shall:**

1. Ensure that applicants and authorized stores consistently meet WIC Program requirements as outlined in the Vendor Manual, Retailer Agreement, policies and procedures, state and Federal regulations; and
2. Ensure that the WIC Program manages and monitors authorized stores and applicants in compliance with the Vendor Manual, State Plan, Retailer Agreement, state and Federal regulations governing the Program.

**O. VIRGINIA WIC PROGRAM REFERENCED POLICIES AND TRAINING MATERIALS:**

Authorized stores and applicants shall obtain and read the most current version of all guidelines included in the Vendor Manual for the Virginia WIC Program. Some of the critical documents referenced in this Agreement include but are not limited to and subsequent updates of:

- Cashier Training Guide
- Sanctions, Compliance and Program Violations
- Minimum Food Stocking Requirement
- WIC Approved Food List and addition

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SAMPLE

**Acknowledgement Section**

**Part I.** This Agreement is pursuant to 42 U.S.C. Section 1786 and 7 CFR Part 246. As a retailer I acknowledge my responsibility to communicate to all of the individual stores covered by this Agreement the provisions and performance requirements outlined in this Agreement. The authorized agent signature below represents the legal authority to obligate the retailer. Furthermore, my signature represents that I have read, understand and agree to all provisions outlined in this Agreement. If the authorized agent has any questions about the requirements stated in this Agreement, the State agency recommends that you seek legal counsel before signing this Agreement.

Store/Corporate Account Trade Name	Authorized Agent Name (legibly print)
Authorized Agent's Mailing Address	Authorized Agent's Signature
City	State
Zip	Contact Person Name (legibly print)
( ) _____ Contact Person's Daytime Telephone Number	( ) _____ Cell phone or Emergency Contact Number
Federal Employer Tax I.D. Number	( ) _____ Facsimile Number
Date Submitted: _____	Contact Person's Email Address: _____

**Part II. – To Be Completed by the Applicant/Retailer**

Store Name:	
Store's County/City:	
WIC ID No. (If applicable):	
SNAP No.:	

Check here if a listing of additional retail store locations is attached to this Agreement

*To Be Completed by State agency*

**Part III.**

This Retailer Agreement will expire within thirty six (36) months of the start date listed on page three (3) or the statewide implementation of the e-WIC system, whichever occurs first.

The undersigned has authority to sign this Agreement on behalf of the State agency.

\_\_\_\_\_  
Signature of Division Director or Vendor Compliance Manager

\_\_\_\_\_  
Date Approved

The retailer shall comply with the nondiscrimination provisions of 7 CFR parts 15, 15a, and 15b of this title. In accordance with Federal law and U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age and disability. (Not all prohibited bases apply to all programs).

To file a complaint alleging discrimination, write USDA, Director, Office of Civil Rights, 1400 Independence Avenue SW, Washington, DC 20250-9410 or call, toll free, (866) 632-9992 (Voice). TDD users can contact USDA through local relay or the Federal Relay at (800) 877-8339 (TDD), (800) 845-6136 (Spanish) or (866) 377-8642 (relay voice users). USDA is an equal opportunity provider and employer.