PLEASE RETURN **BOTH** COPIES OF THE VENDOR AGREEMENT!

STATE OF MARYLAND
DEPARTMENT OF HEALTH AND MENTAL HYGIENE
WIC PROGRAM
VENDOR AGREEMENT

This Agreement, dated _____, is made by and between _____, hereinafter called "Vendor," and the **Special Supplemental Nutrition Program for Women, Infants and Children**, a unit of the Maryland Department of Health and Mental Hygiene, Family Health Administration (FHA), hereinafter called "Program" or "WIC," and shall commence on _____ and shall terminate on_____
(to be filled in by the Program) *(to be filled in by the Program)*

This Agreement, which concerns the store's or entity's authorization to operate as a WIC Vendor, shall continue in effect until the above-stated termination date or unless it is terminated as provided in this Agreement. The Program reserves the unilateral right to order in writing changes in the work within the scope of the Agreement and the unilateral right to order in writing a temporary stop or delay in performance.

Now, therefore, in consideration of the mutual promises and covenants herein contained, the parties agree as follows:

A. The Parties agree to these General Provisions:

1. This Agreement is not transferable. Any change in ownership or rights of ownership, cessation of operation, or relocation of a store terminates this Agreement and the vendor's authorization to operate as a WIC vendor is ended. This Agreement does not constitute a property interest. If the vendor wishes to continue to be authorized beyond the period of its current Agreement, the vendor must reapply for authorization. If a vendor is disqualified from being a WIC vendor, the Program will terminate this Agreement, and the Vendor will have to reapply in order to be authorized after the disqualification period has ended. In all cases, the Vendor's new application will be subject to the Program's vendor selection criteria and any vendor limiting criteria in effect at the time of the reapplication. Termination of this Agreement due to change in ownership or relocation of a store may not be appealed.

2. The Program will immediately terminate this agreement if it determines that the Vendor has provided false information in connection with its application for authorization. Either the Program or the Vendor may terminate this Agreement for cause after providing written notice to the other party at least 15 days in advance of the termination date.

3. The Program, as well as officers, agents, and employees of the Program, are not

responsible for losses incurred by the Vendor as a result of investigation into an alleged violation, termination of or disqualification from authorization, and/or denial of application for authorization.

4. Payment obligation by the Program is contingent upon the availability of Federal or State funds allocated for payment of such an obligation. If funds are not available for continuance of service, this Agreement shall become void, and services shall be terminated by the Program. Payment will be made on all valid instruments in circulation with an issue date prior to the voiding of this Agreement. The Program shall notify the Vendor at the earliest possible time of any service that will or may be affected by lack of availability of Federal or State funds.

5. The Program, including its representatives at local jurisdiction WIC offices, may conduct monitoring of WIC vendors to determine the vendor's compliance with applicable federal and state policies and regulations, the WIC Vendor Manual, and the WIC State Plan of Operations. The monitoring may include random monitoring, educational buys, and covert compliance buys without the knowledge of the vendor. The Program has sole discretion as to whether or not to notify a vendor in writing when an investigation reveals an initial violation for which a pattern of violations must be established in order to impose a sanction pursuant to 7 CFR § 246.12(l)(3) and COMAR 10.54.03.16.

6. Should the Vendor lose the Vendor's business due to a fire or natural disaster and the business is able to reopen within thirty (30) days, the Vendor shall retain the Vendor's WIC authorization. However, if more than thirty (30) days are needed to reopen, the Program shall terminate this Agreement, and the store must reapply for authorization and be approved as a WIC vendor in order to obtain authorization to operate as a WIC Vendor.

7. The Vendor Sanction Policy, as detailed in COMAR, the Vendor Manual, and the Program's State Plan of Operations, shall be a part of this Agreement. The current version of the Vendor Sanction Policy, Vendor Manual, Application Packet, and the State Plan of Operations is incorporated by reference into this Agreement. The WIC Program will update these documents as required, and the Vendor is subject to the requirements of the most recent update. In addition, the Vendor is subject to the terms of the Sanction Policy in effect at the time the Vendor violates a provision of the Agreement.

8. Except as provided elsewhere in this agreement, a store has the right to appeal a Program decision pertaining to a denial of application for authorization or a termination of or disqualification from authorization within 10 days of the date of the Vendor's receipt of the notice of denial or notice of termination.

9. The Program may terminate a Vendor's authorization to operate as a WIC Vendor or

disqualify a Vendor from authorization for reasons of program abuse, failing to adhere to WIC policies and procedures, failing to adhere to applicable State and Federal statutes and regulations, the WIC Vendor Manual, the State Plan of Operations, and/or failing to adhere to the provisions of this Agreement.

10. A disqualification from the Supplemental Nutrition Assistance Program (SNAP) or disqualification from any other Food and Nutrition Service (FNS) Program will result in an automatic termination from the WIC Program for the same, but not necessarily concurrent, amount of time. Vendor disqualifications resulting from SNAP disqualification are not subject to administrative or judicial review.

11. The Program may disqualify a Vendor that has been issued a civil money penalty under the SNAP pursuant to 7 CFR § 246.12 of the WIC Program Regulations. The Program may also impose a civil monetary penalty in accordance with the formula outlined in 7 CFR § 246.12.

12. Notice of a store's termination of or disqualification from authorization from the WIC Program will be forwarded to the United States Department of Agriculture (USDA) and may be grounds for disqualification of the Vendor from other FNS Programs, including the SNAP. Such disqualification may not be subject to Administrative or Judicial Review under the Supplemental Nutrition Assistance Program.

13. The relocation of a WIC store terminates this Agreement, and the vendor must reapply for a new period of authorization and be authorized as a WIC Vendor by the WIC Program before it may operate as a WIC Vendor at the new location.

14. A Vendor who commits fraud or abuse of the Program is liable for prosecution under applicable Federal, State, or local laws, and may be, if convicted, subject to a fine of not more than $25,000 or imprisonment for not more than 5 years or both in accordance with 7 CFR § 246.12(h)(3)(xx) and 7 CFR § 246.23(d).

15. The provisions of this Agreement are governed by Maryland law.

16. The Program may terminate this Agreement for cause after providing 15 days advance written notice of the decision to do so if it determines that such a termination would be in its best interest. The Program will pay all reasonable costs associated with this Agreement that the Vendor has incurred to the date of the termination. These costs are limited to properly redeemed food instruments. However, the Vendor shall not be reimbursed for any anticipatory profits that have not been earned up to the date of the termination.

17. The Program may amend this Agreement upon 15 days notice to the Vendor in order to

comply with any new Federal or State laws or regulations or policies issued by the USDA. In all other instances, the Agreement may only be modified as the Program and the Vendor mutually agree in writing.

18. The Program will terminate the Agreement if the Program identifies a conflict of interest. It is unlawful for any State officer, employee, or agent to participate personally in his official capacity through decision, approval or disapproval, recommendation, advice, or investigation in any contract or other matter in which he, his spouse, parent, minor child, brother, or sister has a financial interest or to which any firm, corporation, association, or other organization in which he has a financial interest or in which he is serving as an officer, director, trustee, partner, or employee, or any person or organization with whom he is negotiating or has any arrangement concerning prospective employment, is a party, unless such officer, employee or agent has previously complied with the provisions of State Government Section 15-501 et seq. of the Annotated Code of Maryland.

19. The Program may reassess the Vendor at any time during the Agreement period using the current selection criteria. The Program will terminate the Agreement if the Vendor fails to meet the current Vendor selection criteria.

20. The Program has sole discretion to designate the date, time, and location of all interactive Vendor training.

B. The Vendor agrees to:

1. Adhere to all applicable existing laws and regulations of the Program and any subsequently enacted as a result of State or Federal legislation.

2. Adhere to all policies and operating procedures of the Program, including those found in the WIC Application Packet, the WIC Vendor Manual, and the WIC State Plan of Operations, and including updates of these policies and procedures.

3. Process all WIC checks and fruit and vegetable checks (here and thereafter defined as food instruments) in accordance with Program regulations, policies, and procedures and make available for inspection during routine monitoring visits all food instruments in the vendor's possession at the time of the routine monitoring visit.

4. Submit food instruments for payment within the allowed time period as set forth in the Vendor Manual and request payment from the Program for problem or bank-rejected food instruments, certifying thereto that the represented service has been performed, that payment for the service has not been received, and that the amount specified is due and owing.

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5. Include in a request for payment:

   a. The Program assigned WIC Vendor Identification Number, which is _____;

   b. The Vendor's Federal Tax Identification, which is _____;

   c. The Vendor's address, which is_____

   _____

6. Address all requests for payment to:

   Maryland WIC Program
   Fiscal Unit 201 W. Preston Street, 1st Floor
   Baltimore, Maryland 21201

7. Accept food instruments from a participant (here and thereafter defined as including any parent, caretaker of an infant or child participant, and proxy) only within the allowed time period as set forth on the food instrument.

8. Provide to the participant only the supplemental foods specified on the food instrument submitted by the participant.

9. Hold the Program forever harmless for any WIC transaction completed prior to the Vendor's being authorized to operate as a WIC Vendor.

10. Provide supplemental foods at the current prices or at less than the current prices charged to other customers.

11. Not seek restitution from any participant in connection with the negotiation of a WIC food instrument or for food instruments not paid for by the Program.

12. Provide the Program with the name of the bank and the account number in which WIC food instruments are to be deposited and inform the Program immediately in writing of any change in either item.

13. Return to the Program within 15 days of termination of this Agreement all WIC Vendor Identification Stamps issued to the Vendor by the Program.

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14. Obtain, at its expense, all licenses, permits, insurance, and government approvals, if any, necessary for the Vendor's performance under the Agreement.

15. Accept responsibility for WIC food inventory of the Vendor at the termination of the Agreement or upon the termination of the Vendor from the Program.

16. Inform cashiers and other staff about Program requirements and train cashiers and other staff on Program requirements.

17. Be accountable and responsible for vendor violations committed by owners, officers, managers, agents, and employees of the vendor.

18. Offer Program participants the same courtesies offered other customers, including giving rewards to WIC participants for purchases made with WIC food instruments if rewards are given for cash purchases, allowing the use of store bonus or savings cards which provide price savings, and offering WIC customers in store promotions such as "buy 1, get one free." However, vendors may not offer incentive items solely to WIC participants.

19. Provide access, on the day of a monitoring visit, to any food instruments negotiated on the day of any monitoring reviews, at the request of the monitor.

20. Provide to WIC representatives access to all program-related records in accordance with 7 CFR § 246.12(h)(3)(xv) of the WIC Regulations.

21. Comply with the nondiscrimination provisions of 7 CFR Parts 15, 15a, and 15b and:

    a. Not discriminate in any manner against an employee or applicant for employment because of race, color, sex, creed, national origin, age, marital status, religion, ancestry, or disability of a qualified individual with a disability;

    b. Include a provision similar to that contained in subsection a above in any subcontract except a subcontract for standard commercial supplies or raw materials; and

    c. Post and cause subcontractors to post in conspicuous places, available to employees and applicants for employment, notices setting forth the substance of this nondiscrimination provision.

22. Not collect sales tax on WIC food purchases.

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23. Pay all excess charges assessed by the Program in accordance with applicable regulations.

24. Notify the Program as soon as the Vendor has knowledge that it will cease operation or that there will be a change in ownership, and notify the Program immediately when a store cannot operate due to fire or other natural disaster.

25. Maintain inventory records used for Federal tax reporting purposes and all other WIC records for a period of three (3) years.

27. Participate in Annual Vendor Training sessions offered by the Program and any other Vendor training deemed appropriate by the Program.

28. Not charge the Program for foods not received by a WIC Participant.

29. Refrain from use of the WIC logo and Acronym, or close facsimiles, in the name of the vendor, store front signage, and advertising and other promotional materials. Vendor developed shelf talkers/tags must be submitted to the State WIC office for approval before use. WIC shelf talkers/tags must be accurately placed and must not misidentify food items as WIC authorized. Vendors may not apply stickers, tags or labels that have the WIC logo or acronym on WIC-approved products. Violation of this prohibition is subject to the sanction contained in COMAR 10.54.03.16 which are incorporated by reference.

30. Comply with all applicable vendor practices in accordance with COMAR 10.54.03.15.

31. Surrender improperly handled food instruments to WIC personnel upon request.

C. The Program Agrees To:

1. Advise participants of the location or locations of the store or stores that the Vendor has been authorized to operate under this Agreement.

2. Provide for the payment of the actual purchase price of WIC foods listed on properly redeemed valid Maryland WIC food instruments provided that purchase price is within the “not to exceed limits” established by the Program.

3. Provide the Vendor with annual training and materials to support the Vendor’s efficient operation as a WIC Vendor in the Program, and provide the Vendor with at least one alternative date on which to attend such training.

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4. Notify the Vendor of any changes in Program regulations and operating procedures.

5. Undertake appropriate monitoring, auditing, and review of the Vendor as required by Federal and State Program rules, regulations, policies, and procedures.

6. Provide prompt and courteous assistance to the Vendor when problems or questions arise concerning the Vendor's operation as a WIC Vendor.

7. Maintain records associated with this Agreement.

8. Impose sanctions in accordance with the provisions of this Agreement, the WIC Vendor Manual and State Plan of Operations, and Federal and State regulations and laws.

9. Disqualify the Vendor for reasons of Program abuse or violation of this Agreement, the WIC Vendor Manual, the State Plan of Operations, or federal or state WIC laws or regulations, or disqualification from the Supplemental Nutrition Assistance Program or from any other FNS Program.

10. Bill for excess charges as set forth in COMAR 10.54.03.12.

11. After providing an opportunity to correct or justify such payments, deny payment to the Vendor for improperly processed food instruments and demand refunds for payments already made on improperly processed food instruments.

D. The Program's Agreement Monitor is the primary point of contact for the Program for matters relating to this Agreement. The Vendor shall contact this person immediately if the Vendor is unable to fulfill any of the requirements of the Agreement or has any questions regarding the interpretation of the provisions of the Agreement.

The Agreement MONITOR for the Program is:

Maura Shea, Chief,
Vendor Operations & Program Support
Maryland WIC Program
201 W. Preston Street, Room 103
Baltimore, Maryland 21201
410 767-5258

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E. The Vendor's primary point of contact is responsible for matters relating to the Vendor's performance under this Agreement.

The Vendor's primary point of contact is:

_____
Name (Print or Type)

_____
Title (Print or Type)

_____
Business Address (Print or Type)

_____
Business Telephone Number (Print or Type)

F. The Vendor represents and warrants that:

1. It is qualified to do business in the State of Maryland and that it will take all necessary action to remain so qualified; and

2. It is not in arrears with respect to the payment of monies owed to the State of Maryland, or any unit thereof, and that it will not become in arrears during the term of the Agreement.

G. The Agreement is between Maryland's Special Supplemental Nutrition Program for Women, Infants and Children (WIC)

and_____
Name of Vendor

and covers the following store:

STORE NAME	STORE ADDRESS	MARYLAND WIC ID#

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H. Both parties agree that the documents listed are hereby incorporated into this Agreement and made an integral part thereof:

Maryland WIC Program Vendor Application Packet

Maryland WIC Program Vendor Manual

Maryland WIC Program State Plan of Operations

Title 10 Department of Health and Mental Hygiene, Subtitle 15 Special Supplemental Nutrition Program for Women, Infants, and Children

7 CFR Section 246 Supplemental Nutrition Program for Women, Infants, and Children

In Witness Whereof, the parties hereto have set their hands and seals:

(Signatory for the Vendor)

By: _____
(Vendor's Signature)

_____
Name (Typed or Printed)

_____
Title (Typed or Printed)

_____
Date

(Signatory for the Department)

By: _____
Secretary of Health and Mental Hygiene

Or

By: _____
(Designee of the Secretary of Health and Mental Hygiene)

_____
Date of Signing by Secretary or Designee

Approved as to Form and Legal Sufficiency

This 25th Day of February 2015

By: Claire Pierson

Claire Pierson
Assistant Attorney General

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