

## Virginia WIC Program's Retailer Agreement

The purpose of this Agreement is to authorize retail stores to provide WIC food benefits in compliance with federal and state regulations, rules and policies to eligible eWIC cardholders. Retail stores are eligible to begin accepting eWIC benefit cards after meeting all selection and enrollment requirements, including 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 only complete Parts I and II on the last page.
- ✓ **PART I** - Legibly print the store's identifying information and sign the Retailer Agreement. If a response does not apply, write in N/A (Not Applicable). The Retailer 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 and in good standing by the Supplemental Nutrition Assistance Program - SNAP (formerly known as Food Stamps) prior to applying for WIC Program authorization.
- ✓ **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 your store does 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 online, using an internet based system furnished by the State agency for these unauthorized store locations.
- ✓ **PART III**. This section will be completed by the Agency if the store is selected for WIC Program authorization. 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 the completed Agreement to the address below. Store(s) that are selected for authorization will be sent a Final Authorization Letter, along with a signed copy of this Agreement. If a store has a corporate contact, a single Final Authorization Letter, along with a listing of stores is sent to their designated corporate contact.
- ◆ The completed Retailer Agreement must be emailed to **WIC\_Retailer@vdh.virginia.gov** or mailed to:

Attn: Vendor Compliance Manager  
Virginia Department of Health  
Division of Community Nutrition  
109 Governor Street, 8<sup>th</sup> Floor  
Richmond, VA 23219

Retailers may contact the State WIC Program at 804-864-7800 and ask to speak with the Vendor Manager, if you have any questions about this Agreement.



**VIRGINIA DEPARTMENT OF HEALTH  
Division of Community Nutrition  
RETAILER AGREEMENT**

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

This Retailer Agreement (“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 Community Nutrition, 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 **October 1, 2020** 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 October 1, 2020 or September 30, 2023.** For this Agreement to be valid, a listing of the individual retail store locations, if applicable, and their corresponding WIC IDs must be 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 all sections covered in this Agreement.

***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.***

**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, government owned, private or public corporation, or other business entity operating one store authorized by the State agency to provide authorized supplemental foods to eligible eWIC cardholders. Each store operated by a business entity constitutes a separate retailer and must be authorized separately from other stores operated by the same 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 eligible eWIC cardholders. 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 same business entity.
3. 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.”
4. All instance of using the term “participant” shall include eWIC cardholders, parents, caretakers of an infant and child participants or proxies.
5. ***eWIC Cardholder*** means an authorized person (i.e., participant, parent, legal guardian, caretaker, or proxy) in possession of a eWIC benefit card. This benefit card allows the eWIC cardholder to purchase food/formula items prescribed to one or more participants assigned to a family’s account.
6. ***eWIC Food Benefits*** means the specific set of foods or formulas prescribed to a family account that can be purchased by a eWIC cardholder during a specified time period. The food benefits may identify the specific food items or a benefit dollar amount for fruits and vegetables that can be purchased.
7. ***eWIC Transaction*** means an on-line, real time payment method that electronically pays authorized stores for food items purchased by a eWIC cardholder. A eWIC benefit card is issued by the Virginia WIC Program to each eligible family

account. The eWIC benefit card is used by the eWIC cardholder to purchase food and cash value benefits at authorized store locations.

8. For purposes of this Agreement the following terms will be used synonymously: authorization, authorization status, agreement, and agreement status.

**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.
2. All authorized retailers must comply with the terms of this Agreement, state and federal WIC Program statutes, the nondiscrimination provisions of departmental regulations, rules, regulations, policies and applicable laws governing the WIC 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 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(l)(1)(i));
  - j. Disqualification based on the imposition of a SNAP civil money penalty for hardship (§246.12(l)(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(l)(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(l)(1)(vii).
3. The State agency may not provide administrative reviews for the following actions:
  - 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(l)(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 - 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 benefit 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));
  - 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; 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's originally imposed sanction/disqualification will stand; and
  7. A retailer being retained in lieu of disqualification by the WIC Program for state agency violations only 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.
  8. The State may not accept voluntary withdrawal as an alternative to disqualification for federal violations

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

##### **The Retailer shall:**

1. Provide at least fifteen (15) calendar days 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, relocation, and/or cessation of operation.
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;
4. Restrict access to available internet based applications offered by the Virginia Department of Health to those individuals with authority to use this option; and
5. Have either direct access to email. An email account must be maintained by WIC authorized stores throughout the Agreement period.

##### **The State agency shall:**

1. Provide retailers and/or corporate retailers with Program updates, WIC Approved Food Lists and Formula Flyers, eWIC Cashier Handbook, copies of pertinent WIC Program Retailer guidelines, supplies and other educational materials;
2. Send written correspondence, program updates, and other materials to authorized stores and applicants via email (if applicable);
3. Send written correspondence that may have an adverse affect on a store's WIC authorization, i.e., potential disqualification letter, application acknowledgement letter, failure to attend mandatory training letter via certified mail or other methods that allow for the receipt documentation of said correspondence; and
4. 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 eWIC cardholder, 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 eWIC food benefits at the store location covered by this signed Agreement only after receiving official written notification from the State agency granting authorization;
2. Provide the name and address of the retailer's primary formula and grocery supplier. This documentation must be submitted upon initial application, reauthorization process or upon request by the State agency;
3. Solely purchase contract and special formulas from resources that are approved by the Virginia WIC Program to sell infant formula as identified on the State agency'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 or reauthorization processes; 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; and
6. Use the Crossroads Vendor Portal or other designated system to submit application, manage account and update demographic information.

**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. Terminate this Agreement (immediately) 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 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 benefit documentation 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 one (1) calendar year; 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, minimum inventory stocking visit or telephone consultation; and
8. Cooperate with state, local, and/or Agency representatives conducting unannounced on-site monitoring visit, minimum inventory stocking visit, or compliance investigations used to determine compliance with WIC Program requirements.

**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 minimum inventory stocking requirement, proper and consistent use of "Wholesome Informed Choices - WIC" shelf labels, competitive pricing analysis and food benefit redemption procedures. These monitoring activities can be completed through observation while conducting on site visits made by trained Agency Representatives, unannounced covert visits, analyzing data, follow-up actions taken on submitted complaints, compliance buys, training buys, review of redemption data, and/or inventory audits.

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

1. Ensure the purchase price charged includes only the authorized supplemental food actually provided as is charged in accordance with the procedures outlined in this agreement and other proprietary training resources;
2. Follow the procedures outlined in the WIC Program's eWIC Cashier Handbook and other proprietary training resources pertaining to the handling of eWIC transactions which apply to the store's Point of Sales (POS) system;
3. Accept eWIC benefit cards only for WIC authorized supplemental foods, contract and non-contract formulas prescribed to the eWIC cardholder's account and identified as redeemable at retail stores;
4. Redeem eWIC benefits from eWIC cardholder account within the allowed time period stated on the cardholder's eWIC shopping receipt;
5. Ensure that the most current Virginia Approved Product List (APL) is installed in the store's POS system and is being used for processing eWIC transactions;
6. Sell to eWIC cardholder only the category, subcategory or Universal Product Codes (UPCs) identified as approved on the electronic Approved Product List (APL);
7. Provide only the authorized foods prescribed and charge the WIC Program only for approved food/formula items actually sold to the eWIC cardholder;
8. Process all transaction types that are required by the WIC Program;
9. Maintain a certified Electronic Cash Register (ECR) automated system in a manner necessary to ensure system availability for eWIC processing during all hours the store is open for business;
10. Maintain a certified automation system to accept and process eWIC benefit cards for eWIC cardholders purchasing food benefits using either stand-beside or integrated systems that perform online eWIC transactions in accordance with published rules, policies and specifications, including:
  - (a) WIC EBT operating rules as amended from time to time;
  - (b) X9.93 specifications for WIC EBT transactions, a copy of which can be provided upon request; and
  - (c) X9.93 implementation guidelines, a copy of which can be provided, upon request.
11. Use a "store and forward processing" option at the retailer's risk. If a retailer has an integrated system and chooses to use the "store and forward" option it must notify the WIC Program prior to sending in this type of redemption file. Any eWIC transaction that is sent to the eWIC Processor's host system but for which an acknowledgement response is not received should be promptly reversed. (This paragraph applies to stores using an integrated POS system only);
12. Not provide substitutions, cash, credit, nonfood items, refunds, rain checks or permit exchanges for authorized supplemental foods/formulas obtained with food benefits, 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;
13. Never buy or sell food benefits for cash which would be considered trafficking;
14. Never buy or sell the eWIC benefit card for cash which would be considered trafficking;
15. Neither seeks restitution from the eWIC cardholder nor contacts the cardholder and/or local agencies for food benefits not paid by the WIC Program and/or improperly processed by the retailer. The retailer will not request a refund from the eWIC cardholder for food benefits determined by the State agency to be an overcharge or any other food benefit discrepancies that would cause a food redemption not to be paid;
16. Handle split tender in accordance with USDA regulatory requirement when handling Cash Value Benefit transactions (for purchasing WIC approved fruits and vegetables only). (Note: split tender transactions pertains to the ability to allow part of the cost to be paid for using both the eWIC benefit card and another form of tender, i.e., SNAP card, credit/debit card, or cash);
17. Not charge the WIC Program for any fees arising out of, or associated with, operating, maintaining or processing eWIC transactions that are the result(s) of the retailer's action(s);
18. Not charge the eWIC cardholder any fee, either directly or indirectly, arising out of or associated with operating, maintaining, or processing eWIC transactions;

19. Allow the eWIC cardholder to purchase up to 50 items prescribed to the family account, during a single or multiple shopping visits;
20. Accept as payment in full for each WIC authorized product redeemed the lesser of (i) the shelf price requested for the product or (ii) the WIC Program's calculated Not-To-Exceed (NTE) price for that product within the store's assigned peer group;
21. Accept any manufacturer's coupons or other store promotions for WIC approved items in processing eWIC transactions, in compliance with federal rules;
22. Process the value of the manufacturer coupons, if applicable and apply said discount to the WIC transaction, thus benefiting the Program;
23. Remain price competitive when compared to other authorized stores that are located in the same peer group;
24. Pay the State agency for any eWIC transactions identified as having non competitive prices (when compared against stores within their assigned peer group) identified from a post payment (cost containment) assessment, if applicable;
25. Not charge sales tax on authorized supplemental foods or formulas obtained with a eWIC benefit card; including cash value benefits associated with the purchase of fruits and vegetables, except for the purchase amount that is above the amount of a cash value benefit available to the eWIC cardholder. Taxes charged for the amount exceeding the cash value benefit must be paid by the eWIC cardholder;
26. Charge the WIC Program the lower price when the store's computer prices are higher than the posted shelf price
27. Not require eWIC cardholder to spend all benefits at the same time;
28. Sell WIC approved items and formulas to eWIC cardholders at the same price charged to non-WIC customers;
29. Offer the eWIC cardholder the same courtesies that are offered to other (non-WIC customers). The retailer shall not treat eWIC cardholder (customers) differently from non-WIC customers by excluding them from in-store promotions. Similarly, WIC-authorized stores shall not treat the eWIC cardholder differently by offering them incentive items, discounts, coupons, or other promotions that are not offered to non-WIC customers.
30. Redeem food benefits for the exact category, subcategory or UPC prescribed to the eWIC cardholder's account. The retailer acknowledges that any substitution of the category, subcategory or UPC may result in an inaccurate charge, and reimbursement, if applicable, may be requested by the State agency;
31. Accept liability for any redemption of eWIC benefits:
  - (a) For which an approval has not been received from the WIC Program; or
  - (b) For the incorrect redemption of benefits (e.g. providing an item not authorized by the WIC Program or not available in the cardholder's account);
32. Scan the actual UPC that is affixed to the item, unless the item being purchased is fresh, canned or a frozen fruit/vegetable (The generic "44691" code is the only acceptable alternative Price Look Up (PLU) code that can be used for fresh fruits and vegetables subcategory.);
33. Never scan codes from UPC or PLU codebook or reference sheet(s). For food benefits, excluding cash value benefit items, the retailer shall not scan any UPCs as a substitute, replacement or otherwise not actually affixed to the actual item being purchased by the eWIC cardholder; and
34. Comply with state policies and procedures for creating and updating the category, subcategory or UPCs used to identify WIC approved foods. ***Failure to comply with these policies and procedures shall result in the retailer being held financially liable for WIC transactions involving invalid or unauthorized UPC codes.***

**The State agency shall:**

1. Ensure prompt payment to the retailer's account for all properly executed eWIC transactions;
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. Ensure the Not-To-Exceed pricing levels used are reasonable for the food/formula items prescribed for purchase by eWIC cardholders
4. Identify retailers who received a non-competitive reimbursement level for eWIC transactions paid for by the State agency as a result of a post payment (Vendor Claim) assessment, if applicable.
5. Provide supporting documentation to the retailers of any Vendor Claims assessment made due to non-competitive reimbursement payment made to it.

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

1. Meet, at all times, the minimum inventory stocking requirement for the WIC approved foods or formulas, with prices plainly marked on the product or shelf or posted in the immediate area where the foods or formulas are kept;
2. Secure written approval from the State agency of any internal/external promotional and/or advertising materials related to the WIC program;
3. Post in a highly visible location an “eWIC Cards Accepted Here” window decal or alternative signage that has been approved by the State agency;
4. Ensure at least one checkout lane is available during the store’s operational hours that is equipped to process eWIC transactions, if all lanes are unable to process eWIC transactions;
5. Require eWIC cardholders to use special checkout lanes if the retailer does not have eWIC processing capabilities at all lanes. Appropriately display signage that has been provided by the WIC Program or its designated contractor, which states “*eWIC Cards Accepted Here*” at checkout lanes that can process eWIC transactions. Ensure “*eWIC Cards Accepted Here*” signs are posted in a visible location at all lanes that accept eWIC transactions. (This requirement applies to stores using stand beside devices if not all checkout lanes can process eWIC transactions);
6. Ensure that eWIC cardholder information identified through the eWIC transaction remains confidential and is not used for any purposes outside of the redemption and complaint handling processes;
7. Communicate in writing any software/hardware upgrades or network configuration changes that are made to the store’s Point of Sales system which affects the processing of eWIC transactions;
8. 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;
9. Provide the eWIC cardholder with a receipt, which at a minimum, shows the date of the transaction, product(s) purchased, and the remaining balance of available benefits;
10. Ensure the certified automated eWIC redemption process requires the eWIC cardholder to use a secret Personal Identification Number (PIN) in a manner that protects the security of the PIN and in which no one other than the eWIC cardholder will have knowledge of the PIN. The PIN, along with a valid eWIC benefit card, is the sole source of identification needed in processing an eWIC transaction;
11. Not request a personal address, telephone number(s) or require any other type of identification for the purpose of using an eWIC benefit card;
12. Keep all eWIC cardholder information confidential. The retailer shall not confiscate the eWIC benefit card(s) at any time or ask for or enter the cardholder’s PIN;
13. Request state re-certification of the retailer’s automation ECR system if the retailer alters/revises the system in any manner that impacts its eWIC transaction processing capabilities, after initial certification has been approved by the WIC Program;
14. Provide timely transaction documentation as requested and fully cooperate in the resolution of any dispute arising in relation to eWIC transactions and redemptions;
15. Maintain required records for the greater of one (1) year after final payment is received or after all pending matters have been resolved. This requirement includes the retailer’s purchase and inventory records for authorized WIC food items for which the retailer has claimed reimbursement for from the WIC Program;
16. Securely dispose of any eWIC benefit cards found in the store or on the store property if left unclaimed for twenty-four (24) hours;
17. Comply with any ancillary agreements signed with our eWIC processor pertaining to processing and accepting eWIC transactions (**This provision applies to stores using a stand-beside device(s) only**);
18. Directly contact the eWIC processor to make arrangements to lease additional stand-beside devices not covered by the Program, if applicable;
19. Understand that the rights and obligations established by this Agreement may not be transferred or assigned by the retailer to any other third party;
20. 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’s 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;
21. Retailers that increase or decrease their number of cash registers must notify the state agency in writing within 15 calendar days. (12VAC5-195-340);
22. Not offer or provide any incentives to eWIC customers;

- 23. Not charge to the State agency for any third-party commercial processing costs and fees incurred by the retailer from EBT multi-function system and equipment. Commercial transaction processing costs and fees imposed by a third-party processor that the retailer elects to use to connect to the EBT system of the State shall be borne by the retailer; and
- 24. Comply with the WIC EBT Operating rules, standards and technical requirements established by the State agency.

**The State agency shall:**

- 1. Establish the minimum inventory stocking requirement for WIC approved foods and formulas. Communicate to authorized stores and applicants any changes to this inventory standard;
- 2. Ensure no retailer is approved as a 50 percent vendor (50 percent vendors are vendors that derive more than 50 percent of their annual food sales revenue from eWIC transactions)
- 3. Ensure authorized retailers comply with all operational requirements;
- 4. Confirm the number of cash registers that can accept eWIC transactions is accurate;
- 5. Ensure authorized stores and applicants consistently meet all WIC Program authorization and program requirements as outlined in the state and Federal regulations, State Plan, Retailer Agreement, Retailer Manual, policies and procedures;
- 6. Ensure that the WIC Program manages and monitors authorized stores and applicants in compliance with state and Federal regulations, State Plan, Retailer Agreement, Retailer Agreement, policies and procedures governing the Program;
- 7. Provide networks and host processing for eWIC transactions that provide on-line and real time approval, twenty-four (24) hours a day, seven (7) days a week;
- 8. Make available daily the most current Approved Product List (APL) containing a complete listing of products that are approved for redemption by the WIC Program through its eWIC processor;
- 9. Reimburse (settle to) the retailer for all approved eWIC transactions that are made in accordance with applicable state and federal rules and requirement. Settlement will make use of commercial payment system settlement practices (i.e., the eWIC processor will settle to the third party processor (TPP)/Value Added Reseller (VAR)).
- 10. Provide a settlement amount that may differ from requested amounts because:
  - (a) The price of the food items within a transaction exceeds the NTE price designated by WIC Program for that food item and quantity or exceeds the retailer’s shelf price for the food purchased;
  - (b) Not all of the food items within a transaction are approved; or
  - (c) Adjustments for previous transactions are applied.
- 11. Provide stand-beside systems, as needed, based on the store’s WIC sales volume or other agreed upon factors, if applicable. For each authorized retailer location, no more than four (4) checkout lanes per authorized store location will be funded by the WIC Program, based on the store’s annual WIC sales, for the most recent twelve (12) month period, as follows:

<b>Superstores &amp; Supermarkets</b> (Two million dollars food sales annually)	Average monthly WIC sales of less than \$ 11,000	One (1) checkout lane funded by WIC Program
	Average monthly WIC sales of between \$ 11,001- \$22,000	Two (2) checkout lanes funded by WIC program
	Average monthly WIC sales of between \$ 22,001- \$33,000	Three (3) checkout lanes funded by WIC program
	Average monthly WIC sales greater than \$ 33,001 (regardless of the number of cash registers available at the store location)	Four (4) checkout lanes funded by WIC program
<b>All Other Vendors</b>	Average monthly WIC sales of less than \$ 2,500 or 1-4 registers	One (1) checkout lane funded by WIC Program
	Average monthly WIC sales of between \$ 2,501- \$6,000 or 5-7 registers	Two (2) checkout lanes funded by WIC program
	Average monthly WIC sales of between \$ 6,001- \$12,000 or 8 or more registers	Three (3) checkout lanes funded by WIC program
	Average monthly WIC sales greater than \$ 12,001 (regardless of the number of cash registers available at the store location)	Four (4) checkout lanes funded by WIC program

- 12. Determine WIC sales volume solely by using eWIC redemption history for each authorized store location. Authorized stores with less than twelve (12) consecutive months of redemption data available are assigned the average monthly WIC

sales volume for stores owned and operated by the same corporation. For stores with less than twelve (12) consecutive months of redemption data available and the corporation does not own any other WIC authorized stores, then the number of checkout lanes funded by the WIC Program will be determined on a case by case basis. Under no circumstances will the WIC Program fund more than four (4) lanes for this type of store.

13. The State agency may remove excess terminals if actual redemption warrants a reduction consistent with the redemption levels described above. The above mentioned minimum lane coverage standards also apply to retailer-provided multi-function equipment.
14. Not pay or reimburse the retailer for interchange fees related to WIC EBT transactions.
15. Not pay or reimburse the retailer for ongoing maintenance, processing fees or operational costs for the retailer utilizing multi-function system and equipment unless the equipment is used solely for the WIC Program or the State agency determines that the multi-function equipment is necessary for participant access. Costs shared by the State agency shall be proportional to the usage for the WIC Program.

**K. STORE TRAINING (12 VAC 5-195-520)**

**The Retailer shall:**

1. Annually accept training and instructions, in accordance with 7 CFR 246.12(i) and meet mandatory training requirements as established by the State agency within specific timeframes given to authorized stores;
2. Annually, 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;
3. Secure training on how to process eWIC transactions from the store's Point of Sale (POS) contractor or service provider; and
4. 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. Designate date, time, and location of interactive training and provide one alternative date if needed;
2. Provide training materials and supplies to retailers to meet annual and ongoing training requirements;
3. Ensure all required training materials and supplies are available to retailers by the State agency's eWIC Processor;
4. Document annual training requirement has been met;
5. Provide technical support to authorized stores, applicants and corporate contacts on training issues;
6. Ensure that at least one store management representative is trained in the proper acceptance and processing of eWIC transactions;
7. Evaluate and provide feedback, if applicable, on the effectiveness of the training provided by the retailer to their cashiers and relevant store personnel; and
8. 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 shall terminate the Retailer Agreement if the retailer fails to meet the current retailer selection criteria;
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. If the retailer wishes to be reauthorized, they 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 judgment 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 or obstruction of justice.

**The State agency shall:**

1. Ensure that adequate participant access exists for eWIC cardholders to use their food benefits;
2. Ensure that authorized retailer's credentials meet Federal business integrity requirements; and
3. Terminate the Retailer's Agreement if a store is disqualified. 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. Understand the retailer is accountable for its owners, officers, managers, agents, and employees who commit violations;
2. Accept and be deemed to have consented to covert compliance buy monitoring in order to document the level of program compliance;
3. Reimburse the WIC Program for any ineligible foods/formula purchased during a compliance investigation;
4. Permit an eWIC cardholder to purchase WIC approved food/formula items without attempting to promote non-WIC purchases;
5. Pay all State agency non-compliance fines, any claim assessed by the state, and any interest on unpaid balances, if applicable;
6. Understand that the State agency uses a multi-tier sanction system in documenting violations in accordance with the State agency's sanction schedule. The State agency will take administrative action, including disqualification; assess fines and/or a Civil Monetary Penalty (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 shall be assessed and paid by the retailer in lieu of disqualification;
7. Indemnify and hold harmless the State agency and the WIC Program for any losses incurred as a result of disqualification;
8. Understand that non-compliance with any of the requirements outlined in this Agreement may result in fines, 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;
9. 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 \$49,000 (if retained in lieu of disqualification) per investigation;
10. For disqualification or other adverse actions participate in an Informal Settlement Meeting prior to participating in a Full Administrative Appeal Hearing; and
11. Understand that Food and Nutrition Service (FNS) may disqualify the Supplemental Nutrition Assistance Program (SNAP) authorization of any retailer which is disqualified from the WIC Program. The State agency must disqualify a store who has been disqualified from SNAP. The disqualification must be for the same length of time as SNAP disqualification, may begin at a later date than SNAP disqualification, and is not subject to administrative or judicial review under the WIC Program.

**The State agency shall:**

1. Assess sanctions and collect administrative fines, CMP fines, overcharges, Vendor Claims, or may delay payment of the purchase price of each benefit food item contained in an overcharge or other error in accordance with Federal/state regulations and program policies and procedures. The state will provide the vendor with an opportunity to justify or correct such errors;
2. Comply with the provisions as set forth in 42 C.F.R. §1786 and the regulations regarding criminal penalties and forfeitures;
3. 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. Post on the WIC Program's website a copy of the current sanction schedule and also include this resource in the State agency's Retailer's Manual for the Virginia WIC Program.

**N. 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 Retailer 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 (*may be located by visiting [www.vdh.virginia.gov](http://www.vdh.virginia.gov)*):

<ul style="list-style-type: none"> <li>• eWIC Cashier Handbook</li> </ul>	<ul style="list-style-type: none"> <li>• Sanctions, Compliance and Program Violations</li> </ul>
<ul style="list-style-type: none"> <li>• Minimum Food Stocking Requirement</li> </ul>	<ul style="list-style-type: none"> <li>• WIC Approved Food List and other relevant inserts</li> </ul>
<ul style="list-style-type: none"> <li>• Retailer Manual (For stores using stand-beside device(s) only)</li> </ul>	<ul style="list-style-type: none"> <li>• FNS EBT Operating Rules and technical requirements <a href="https://www.fns.usda.gov/sites/default/files/wic/WIC-EBT-Operating-Rules-September-2014.pdf">https://www.fns.usda.gov/sites/default/files/wic/WIC-EBT-Operating-Rules-September-2014.pdf</a>  <a href="https://www.fns.usda.gov/sites/default/files/WICEBT-TechnicalImplementationGuide.pdf">https://www.fns.usda.gov/sites/default/files/WICEBT-TechnicalImplementationGuide.pdf</a></li> </ul>

**O. Assurance of Civil Rights Compliance**

The State Agency hereby agrees that it will comply with Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), Title IX of the Education Amendments of 1972 (20 U.S.C. 1681 et seq.), Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), Age Discrimination Act of 1975 (42 U.S.C. 610 et seq.); all provisions required by the implementing regulations of the Department of Agriculture; Department of Justice Enforcement Guidelines, and FNS directives and guidelines to the effect that no person shall, on the ground of race, color, national origin, age, sex, or handicap, be excluded from participation in, be denied the benefits of, or otherwise be subjected to discrimination under any program or activity for which the Agency receives Federal financial assistance from FNS; and hereby gives assurance that it will immediately take measures necessary to effectuate this agreement.

By providing this assurance, the State Agency agrees to compile data, maintain records and submit reports as required to permit effective enforcement of the nondiscrimination laws, and to permit Department personnel during normal working hours to review such records, books and accounts as needed to ascertain compliance with the non-discrimination laws. If there are any violations of this assurance, the Department of Agriculture shall have the right to seek judicial enforcement of this assurance.

This assurance is given in consideration of and for the purpose of obtaining any and all Federal financial assistance. grants and loans of Federal funds, reimbursable expenditures, grant or donation of Federal property and interest in property the detail of Federal personnel, reimbursable expenditures, grant or donation of Federal property and interest in such property or the furnishing of services without consideration or at a nominal consideration, or at a consideration which is reduced for the purpose of assisting the recipient, or in recognition of the public interest to be served by such sale, lease, or furnishing of services to the recipient, or any improvements made with Federal financial assistance extended to the State Agency by the Department. This includes any Federal agreement, arrangement, or other contract which has as one of its purposes the provision of assistance such as food, cash assistance extended in reliance on the representations and agreements made in this assurance.

This assurance is binding on the State Agency, its successors, transferees, and assignees as long as it receives assistance or retains possession of any assistance from the Department. The person or persons whose signatures appear below are authorized to sign this assurance on the behalf of the State Agency.

**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 seek legal counsel before signing this Agreement.

Store/Corporate Legal Name	Authorized Agent Name (legibly print)
Authorized Agent’s Mailing Address	Authorized Agent’s Signature
City <span style="margin-left: 150px;">State</span> <span style="margin-left: 100px;">Zip</span>	Contact Person Name (legibly print)
(_____) _____ Contact Person’s Daytime Telephone Number	Contact Person’s Email Address
Federal Employer Tax I.D. Number	Date Signed

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

**Part II. – To Be Completed by the Applicant/Retailer with only one (1) store**

Store Trade Name:			
Physical Address:			
Mailing Address if different:			
City, State, Zip:			
WIC ID Number (If applicable):			
SNAP Number:			
Is your store a Sole Proprietorship? If no please provide the company name or organization you are part of.			
<table border="0" style="width: 100%;"> <tr> <td style="width: 35%;">Total number of registers and total number of WIC Registers</td> <td style="width: 30%;">Total - _____</td> <td style="width: 35%;">Total WIC - _____</td> </tr> </table>	Total number of registers and total number of WIC Registers	Total - _____	Total WIC - _____
Total number of registers and total number of WIC Registers	Total - _____	Total WIC - _____	
<table border="0" style="width: 100%;"> <tr> <td style="width: 40%;">Do more than 50% of your total sales come from WIC? (circle one)</td> <td style="width: 30%;">Yes</td> <td style="width: 30%;">No</td> </tr> </table>	Do more than 50% of your total sales come from WIC? (circle one)	Yes	No
Do more than 50% of your total sales come from WIC? (circle one)	Yes	No	
<table border="0" style="width: 100%;"> <tr> <td style="width: 35%;">Do you use a stand beside system or an integrated system?</td> <td style="width: 30%;">Number of stand beside units: _____</td> <td style="width: 35%;">Integrated system</td> </tr> </table>	Do you use a stand beside system or an integrated system?	Number of stand beside units: _____	Integrated system
Do you use a stand beside system or an integrated system?	Number of stand beside units: _____	Integrated system	

**Part III - To Be Completed by State agency**

This Retailer Agreement will expire or by September 30, 2023. The undersigned has authority to sign this Agreement on behalf of the State agency.

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

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