



MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

WIC PHARMACY VENDOR CONTRACT

Vendor Number
Peer Group

Owner's Name: (Owning entity name only):

Vendor Name: (Name of store as it appears on building or sign):

Vendor Retail Address:

Store Phone Number:

Contact Name and Number:

Vendor Email Address:

This contract by and between the Michigan Department of Health and Human Services (Department), on behalf of the Michigan Women, Infants, and Children Program, having a mailing address of 235 South Grand Avenue, Lansing, MI 48933 and [owning entity legal name] (Vendor) is effective and ends, subject to any amendments prescribed by the Department or until terminated by either party according to Section XVII of this contract.

I. DEFINITIONS

WIC-authorized Vendor is a retail food store with a single, fixed location that is authorized by the State agency to provide approved supplemental foods in exchange for WIC benefits to participants under a retail food delivery system. Each store operated by an owning entity (i.e., sole proprietorship, partnership, cooperative association, corporation, or other business entity) constitutes a separate Vendor and must be authorized separately from other stores operated by the owning entity. However, multiple Vendor locations operated by the same owning entity may be authorized under the same contract, i.e., a chain contract.

Chain contract means an owning entity with two (2) or more outlet locations authorized on the same WIC Vendor Contract. For chain contracts, a list will be attached to this contract containing the specific names and addresses of the outlets covered under this contract, along with the store manager's name and other pertinent information. Each Vendor/store location is given a unique Vendor ID number upon authorization.

*WIC benefits* means electronic benefits that can be used to purchase WIC-approved food items, including cash value benefits for WIC-approved fruits and vegetables, from authorized WIC Vendors using a WIC electronic benefits transfer (EBT) card.

*Infant formula* means a food that meets the definition of an infant formula in section 201(z) of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 321(z)) and that meets the requirements for an infant formula under section 412 of the Federal Food, Drug, and Cosmetic Act (21 U.S.C. 350a) and the regulations at 21 CFR parts 106 and 107.

*WIC nutritionals* means authorized medical foods that are specifically formulated to provide nutritional support for individuals with a qualifying condition. For the purposes of this document, both infant formulas and nutritionals will be referred to as *WIC-approved formulas*.

*WIC-accepted supplier* means a supplier of WIC-approved foods and/or formulas that is:

1. A Michigan based wholesaler, distributor, or retailer that is licensed to distribute food by the Michigan Department of Agriculture and Rural Development (MDARD);
2. A non-Michigan based wholesaler, distributor, or retailer that is licensed to distribute food by the MDARD equivalent in the jurisdiction in which it is located;
3. A Michigan based pharmacy that is licensed by the Michigan Department of Licensing and Regulatory Affairs (LARA);
4. A non-Michigan based pharmacy that is licensed by the LARA equivalent in the jurisdiction in which it is located; or
5. A manufacturer that is registered with the Food and Drug Administration (FDA).

A regularly updated list of MDARD-licensed sources can be found on the WIC Vendor website at [Michigan.gov/WICVendor](https://Michigan.gov/WICVendor). Please contact the Michigan WIC program if you have questions about whether a supplier is *WIC-accepted*.

## II. PURPOSE

This document, upon signature by the Vendor and the Department, is a contract for the purpose of providing an authorized source from which eligible pregnant, post-partum and breastfeeding people, infants and children up to five years of age can obtain nutritious supplemental foods in accordance with the rules, regulations and policies of the Special Supplemental Nutrition Program for Women, Infants and Children (WIC) established by the Food and Nutrition Service, U.S. Department of Agriculture (USDA) and the Department.

## III. RETAIL PURCHASE FOOD DELIVERY SYSTEM

The Michigan WIC Program operates a "Retail Purchase Food Delivery System." This enables WIC participants to go to an authorized pharmacy of their choice and shop to obtain approved WIC formulas in exchange for WIC benefits and complete the transaction at the cash register in accordance with the terms of this contract.

## IV. RESPONSIBILITIES – VENDOR

The undersigned Vendor agrees to comply with the terms and conditions of this contract, including:

- Federal and State statutes, rules, regulations, policies, and procedures, including USDA regulations at 7 CFR 246.1 *et seq.*
- MI-WIC Vendor Policy, including any subsequent changes made during the contract period and hereby made a part of this contract.
- Any amendments or changes to the WIC Vendor Contract by the Department.

**THE VENDOR AGREES TO:**

1. Keep a valid email address, phone number and mailing address on file with the Department to receive communications from the Department. Vendor may update its contact information at any time by providing written notice to the Department.

Accept service of all communications from the Department by email, personal delivery, certified mail (return receipt requested, postage prepaid) or overnight courier.

Comply with program policies, requirements, and demands sent to the email address provided to the Department.

Respond to communications from the Department within the timeframe specified by the Department.

2. Receive training on WIC Program regulations, policies, and procedures. Annual Vendor training may be provided by the Department via newsletters, videos, letters, interactive training or other formats. Training may involve the storeowner, manager, authorized representative, head cashier, or other personnel.

Specifically, at least once every three years, the Vendor must assign a representative to a group or interactive training scheduled by the Department. The attendee of the mandatory training must be an authorized representative of the store who is routinely involved in the training and day-to-day administration of the WIC Program at the store. After attending the mandatory training, the training attendee must train cashiers and other relevant store staff. Vendor must maintain records of such trainings. The Department has the sole discretion to designate the date, time and location of all interactive trainings and will provide the Vendor with at least one alternative date on which to attend such a training.

If the Vendor representative that received the Department's group or interactive training is no longer affiliated with the store, the Vendor must assign a new representative to attend a WIC-sponsored training as soon as possible. Training opportunities are posted on the WIC Vendor website at [Michigan.gov/WICVendor](https://Michigan.gov/WICVendor).

3. Inform, train and update cashiers and other staff on WIC Program requirements and ensure that all cashiers and other staff are knowledgeable regarding procedures set forth in the most recent publication of the Michigan WIC Vendor Handbook and Michigan WIC EBT Manual, hereby made a part of this contract, including any revisions or supplements (including the quarterly Vendor Newsletters) issued by the Department.

For store staff that receive in-store training, the Vendor must maintain records identifying when such trainings were held, which staff were trained, and who performed

each training. Upon the Department's request, the Vendor agrees to supply records of Vendor-provided internal trainings.

4. Be accountable for its owners, officers, managers, agents, and employees who commit WIC Program violations.
5. Provide only currently approved WIC formulas in exchange for valid WIC benefits issued by any authorized Local or State Agency as designated by the Department, according to Federal and State requirements as follows:
  - A. Provide only WIC-approved formulas from a *WIC-accepted supplier* to WIC participants in exchange for WIC benefits.
  - B. Ensure that WIC-approved formulas available for sale are not recalled, spoiled, expired or past the date listed on the item or package.
  - C. Offer WIC participants the same courtesies offered to other customers.
  - D. Never designate 'WIC EBT only' checkout lanes where no other forms of tender are accepted.
  - E. Ensure that at least one WIC EBT equipped lane is functional and accessible to customers at all times.
  - F. Ensure all allowed incentives are offered to both WIC participants and non-WIC customers.
    - i. The Vendor may not offer any incentives for the sole purpose of attracting WIC participants. Incentives offered to WIC participants must be the same as offered to all customers. Incentives include, but are not limited to, in-store credit, loyalty programs, manufacturers' coupons, Buy One, Get One (BOGO), reduced prices, and bonus sized items.
    - ii. The Vendor is prohibited from offering cash, alcohol, tobacco, or lottery to WIC participants as an incentive, even if these items are being offered to non-WIC customers. As used throughout this policy, "cash" is defined as currency, digital currency, debit cards (pre-paid or not), checks, money orders, phone cards, gas cards, gift cards, and the like.
  - G. Never give WIC participants cash in exchange for redeeming their WIC benefits.
  - H. Never require that WIC participants purchase a specified quantity or the full quantity of WIC formulas on their WIC EBT shopping list; or require other cash or minimum purchases as a condition to redeem their WIC benefits.
  - I. Allow up to the full quantity of WIC-approved formulas to be redeemed as specified on the WIC EBT shopping list. This includes splitting cases when requested.
  - J. Never limit WIC participants in their choices of WIC-approved formulas (e.g., never require purchase of a particular brand).

- K. Never provide credit, 'rain checks,' due bills or other similar receipts for WIC-approved formulas not obtained at the time of the transaction.
- L. Never provide one WIC-approved formulas as a substitute for the redemption of a benefit for another WIC-approved formula (e.g., Similac Advance for Similac Total Comfort).
- M. Never provide a non-WIC item as a substitute for the redemption of a benefit for a WIC-approved formula.
- N. Never allow the return of formula purchased with WIC benefits in exchange for cash.
- O. Never allow the return or exchange of WIC-approved formula, subject to the following exception:

The Vendor must allow exchanges when the original WIC-approved formula item is defective, spoiled when it was purchased, or exceeded its "sell by," "best if used by" or other date limiting the sale or use of the formula when it was purchased, or if the item is part of a recall.

Exchanges may only be made for the exact WIC formula or for the same category and size of WIC formula originally obtained and returned by the participant. For example, a 12.5 oz container of X brand of WIC formula that was spoiled at the time of purchase may be exchanged for a 12.5 oz container of X brand of WIC formula). The exception being recalled items where the WIC participant may choose a similar WIC-approved formula allowed under their benefit package.

- P. Never buy or sell WIC EBT WIC benefits for cash.
  - Q. Never allow the sale of non-formula (e.g., alcohol, tobacco, lottery, firearms, ammunition, explosives, or controlled substances) in exchange for WIC benefits.
6. Clearly mark the price of WIC-approved formulas on the item, container, shelf, or sign, in a manner that reasonably informs the WIC participant of the price of the item and is in compliance with all Federal and State laws regarding the pricing of food and/or formula items.
7. Accept and redeem WIC benefits in accordance with the procedures as set forth in the most recent publications of the Operating Rules for WIC EBT, WIC EBT Technical Implementation Guide, and the MI-WIC Vendor Policy; and in compliance with State and Federal Regulations, including any revisions or supplements issued by the Department; and as set forth below:
- A. A valid WIC EBT Bridge Card and Personal Identification Number (PIN) must be presented at the time of purchase for the cardholder to purchase their WIC-approved formulas. The Vendor may not request additional identification from the cardholder.
  - B. The cardholder must enter his/her own PIN.

- C. The Vendor must allow redemption of WIC benefits for only those formulas specifically listed on the participant's WIC EBT shopping list.
  - D. WIC participants must receive the WIC formula that corresponds specifically to the UPC code scanned (or manually entered) by the Vendor during the transaction.
  - E. The Vendor must scan (or manually enter) the UPC code that is affixed to the item being purchased by the WIC participant (i.e., the Vendor is prohibited for scanning or manually entering any UPC code that is not affixed to the actual item being purchased by the WIC participant).
  - F. The Vendor must assure that there is a price loaded in all Point-of-Sale (POS) devices for all WIC-approved formulas available for sale in the store.
  - G. The Vendor must assure that the price assigned to the scanned UPC code in the POS device or system is not greater than the price displayed on the package, container, shelf, signage, or other public displays for the purchased item (i.e., the Vendor must update the price charged to WIC to reflect store-wide sales and other promotions.) The Vendor must also assure that the price assigned to the scanned UPC code in the WIC-capable POS device or system is not greater than the price assigned to the same UPC code in other POS devices or systems managed by the WIC-authorized Vendor.
  - H. The Vendor must give the cardholder a printed WIC EBT terminal receipt that reflects: the date, time and location of purchase, the quantities of foods purchased with WIC benefits, the corresponding sales prices and any discounts applied, and a list of the WIC participant's remaining benefits.
8. Maintain prices for WIC-approved formulas that are competitive, as determined by the Department, for Vendors within a peer group.
9. Provide each WIC-approved formula at the current shelf price or at less than the current shelf price charged to other customers and charge the WIC Program for only those items received by the participant. The current shelf price (UPC based) is the price marked on the item, shelf, container, or sign, or sale price offered to non-WIC customers.
10. Order WIC-approved formulas for WIC participants, as requested.
- A. The WIC-approved formula must be ordered at the time of or within 24 hours of the request by a WIC participant or WIC staff member.
  - B. The WIC-approved formula must be available for pick-up by the participant within 2 business days of the order.
  - C. If the Vendor encounters challenges in sourcing a WIC-approved formula, the Vendor must contact the Michigan WIC State Office at 517-335-8937 during normal business hours for assistance.
11. Use the official WIC logo or acronym only in accordance with the following terms.

- A. Never place stickers, tags, or labels that include either the WIC logo or acronym on individual WIC-approved formulas or packages.
  - B. Never place stickers, tags, or labels that include either the WIC logo or acronym in a location to indicate or suggest that a non-WIC formula is WIC-approved.
  - C. Never use the WIC acronym or logo in Vendor's name, in advertising, or in promotional literature other than to inform the public that the Vendor is WIC-authorized.
  - D. Never use the WIC acronym or logo in the Vendor's advertising in any manner likely to cause confusion, mistake, or deception as to the affiliation, connection, or association of the Vendor with the WIC Program, or as to the sponsorship or approval of the Vendor's goods, services, advertising, or commercial activities, including nutritional message(s), by the WIC Program or USDA.
12. Always display to the public that the Vendor is authorized to participate in the WIC Program and accept WIC benefits. The Vendor also agrees to remove the WIC decal and cease advertising participation in the WIC Program when the store ceases participation in the WIC Program.
  13. Respond to any and all surveys as requested by the Department.
  14. Ensure that no conflict of interest exists between the Vendor, or its owners, officers, managers and other employees, and the Department or its Local Agencies as defined by applicable State laws, regulations, and policies.
  15. Notify the Department in writing prior to a change in the Vendor's Federal Identification Number, location, name of the store, or ownership, including the exchange of shares, change in ownership structure, or change to the name of the owning entity. Notification of change in ownership must include relevant documentation, including a Bill of Sale and/or purchase agreement. This contract does not automatically transfer upon change in ownership.
  16. Notify the Department in writing immediately if the Vendor ceases business operation or is unable to transact WIC for any reason. This includes notifying the Department of a change in normal business hours as reported on the WIC Vendor Application.
  17. Never collect sales tax on WIC purchases.
  18. Never allow total sales from WIC transactions during any 12-month period to be greater than 50% of the store's annual gross food sales during that same period. The Vendor must notify the Department in writing immediately if annual sales from WIC are greater than 50% of the annual gross food sales from that same period.
  19. Never contact or seek restitution from participants for formulas not paid by the Department or charge WIC participants for formulas obtained with WIC benefits.
  20. Make available to representatives of the Department of Health and Human Services, the United States Department of Agriculture, Department of the Attorney General, the Comptroller General of the United States, or any law enforcement agency at any

reasonable time and place, as determined by the Department, for inspection and audit, all WIC benefits and program related records, including electronic records.

21. Permit unannounced visits by Local, State or Federal Agency representatives to review adherence to WIC Program policy and procedures including prices of WIC-approved formulas and compliance with all terms of the WIC Pharmacy Vendor Contract. All such representatives must be treated with respect.
22. Upon request, provide access to all WIC transaction information on hand, including receipts, shelf price records, Vendor inventory records and any other WIC records during an on-site or virtual monitoring visit by an authorized State, local agency, or Federal Agency representative.
23. Conduct WIC business in a way that promotes the health, welfare, and safety of WIC participants.
  - A. Maintain clean and safe shopping conditions.
  - B. Assure that WIC participants are not discriminated against on the basis of race, color, national origin, religion, sex (including gender identity and sexual orientation), age, disability, citizenship, veteran status, height, weight, marital status, or genetic information.
24. Comply with EBT Minimum Lane Coverage as defined in 2 CFR §246.12(z)(2). The State agency may remove excess state-funded terminals if actual redemption activity warrants a reduction consistent with the redemption levels.
25. Not charge to the State agency any third-party commercial processing costs and fees incurred by the Vendor from EBT multi-function equipment.
26. Pay for commercial transaction processing costs and interchange fees related to WIC EBT transactions.
27. Be responsible for ongoing maintenance, processing fees and operational costs for Vendor systems and equipment used to support WIC EBT, unless the State agency determines the Vendor using WIC-only or multi-function equipment is necessary for participant access. Costs shared by a WIC State agency will be proportional to the usage for the WIC Program.
28. Register with the State's payment system, SIGMA Vendor Self Service, for the purpose of receiving payments.
29. Comply with federal and state EBT operating rules, standards and technical requirements.
30. Have a valid pharmacy license from the Department of Licensing and Regulatory Affairs (LARA).

#### V. PURCHASE AND INVENTORY RECORD REQUIREMENTS

The Vendor must maintain required records for three (3) years for WIC formulas purchased



exclusively from WIC-accepted suppliers after final payment is received or after all pending matters are resolved, whichever time period is greater. This includes all WIC benefits and program related records, including electronic records, as well as the Vendor's purchase and inventory records for WIC-approved formulas for which the Vendor has claimed reimbursement from the WIC Program.

The Vendor must maintain purchase and inventory records and make records available to the Department upon request. Purchase and inventory records include invoices, receipts and any other documents that record a sale of goods or services in exchange for payment.

The following criteria must be met regarding the acceptability of purchase and inventory records for WIC review purposes.

1. Sales receipts for all WIC-approved formulas purchased (for resale by the Vendor) must include the name and address of the store, the date of purchase, description of the exact items purchased (e.g., 12 oz. Total cereal), the unit price of the items, the total quantity purchased, and the form of payment. The Vendor must submit the entire sales receipt for the purchase to be counted towards the Vendor's inventory. Invoices from wholesalers must also include the invoice numbers.
2. Purchase records must include a description of the exact items purchased including, size, stock number, UPC code (if available), quantity and unit price. Receipts that do not completely describe the actual item must have computer codes that can be verified by contacting the store at which the merchandise was purchased.
3. All receipts from purchases at retail establishments must be machine dated by the establishment. Hand-written purchase records will not be accepted.
4. Affidavits, statements of fact and oral statements will not be accepted as evidence of inventory. Only purchase invoices or retail receipts as described in this section will be accepted and constitute evidence of inventory.

## VI. PAYMENTS TO VENDOR AND CLAIMS AGAINST VENDOR

The Department, subject to the terms of this contract, will provide payment to Vendor through the State's payment system, SIGMA Vendor Self Service. The Department may deny payment for WIC benefits, including WIC EBT card benefits, not completed, transacted, or redeemed in accordance with Department policies and procedures outlined in this agreement, including any revisions or supplements issued by the Department.

The Department will determine the Not to Exceed (NTE) price, i.e., the maximum allowable price for each WIC-approved formula based on the Vendor peer group as described in MI-WIC Vendor Policy 2.03. If Vendor's requested price exceeds the NTE, the Vendor will be paid the NTE for that item.

When the Department determines the Vendor has committed a Vendor violation that affects the payment to the Vendor, the Department will delay payment or establish a claim. The Department may delay payment or establish a claim in the amount of the full purchase price of each WIC benefit or cash-value voucher that contained the Vendor overcharge or other error. The Department will provide the Vendor with an opportunity to justify or correct a Vendor overcharge or other error. The Vendor must pay any claim assessed by the

Department. In collecting a claim, the Department may offset the claim against current and subsequent amounts to be paid to the Vendor. In addition to denying payment or assessing a claim, the Department may sanction the Vendor for multiple violations in accordance with the WIC Vendor Sanction Schedule (Exhibit 6.01A).

The Department may establish a claim, in addition to a mandatory disqualification, if the result of an inventory audit shows a negative difference between WIC-approved formulas sold to participants using WIC benefits and the store's purchase and inventory records showing what was purchased for sale.

The Department may immediately suspend the Contract during the course of an inventory audit if:

- The Vendor cannot prove the purchase of sufficient quantities of WIC-approved formulas to provide the quantities specified on the WIC benefits redeemed by the Vendor during a specific time period; and
- The value of the difference between the Vendor's inventory records and the amount claimed to have been sold to WIC participants is greater than one thousand dollars (\$1000).

#### VII. INDEPENDENT CONTRACTOR

The Vendor is an independent contractor and not an employee or agent of the Department in carrying out the terms of this contract. No partnership or joint venture relationship is created by virtue of this contract.

#### VIII. NOT A LICENSE/PROPERTY INTEREST

This Vendor Contract does not constitute a license or a property interest. If the Vendor wishes to continue to be authorized beyond the period of its current contract, the Vendor must reapply for authorization. If the Vendor is disqualified, the Department will terminate this contract and the Vendor must then reapply to be considered for WIC authorization after the disqualification period is over. In all cases, the Vendor's new request for WIC authorization will be subject to the Department's Vendor Selection Criteria and any Vendor Limiting Criteria in effect at the time of application.

#### IX. COMPLIANCE WITH VENDOR SELECTION CRITERIA

The Vendor must comply with the Vendor Selection Criteria (MI-WIC Vendor Policy 2.02) throughout the contract period, including any changes to the criteria. The Department may reassess the Vendor at any time during the contract period using the Vendor Selection Criteria in effect at the time. The Department may terminate a WIC Pharmacy Vendor Contract, disqualify the Vendor, or deny an application for reauthorization, per the WIC Vendor Sanction Schedule (Exhibit 6.01A) if the Vendor fails to meet the current Vendor Selection Criteria.

#### X. TERMINATION – FALSE INFORMATION

The Department may immediately terminate this contract if it is determined that the Vendor provided false information in connection with its application for authorization, and the false

information was material to the Department's decision to authorize the Vendor.

#### XI. RESPONSIBILITIES – DEPARTMENT

THE DEPARTMENT MUST:

1. Provide the Vendor with a unique Vendor Number. The Vendor Number is necessary for Point-of-Sale (POS) systems to process WIC transactions and receive payments via electronic benefits transfer (EBT).
2. Issue WIC benefits and WIC EBT cards to eligible pregnant, post-partum and breastfeeding people, infants and children.
3. Provide Vendor with resources regarding WIC Program requirements and regulations.
4. Provide interactive training at least once during each contract period for the Vendor to obtain information on WIC Program policies, procedures, and updates.
5. Process payments to the Vendor in accordance with the WIC benefit redemption procedures set forth in Section V of this contract and the Michigan WIC EBT Manual, and subsequent revisions.

#### XII. REAUTHORIZATION

This contract is in effect for the period indicated on Page 1. Neither the Department nor the Vendor is under any obligation to renew this contract. The Vendor must file a new application with the Department before the end of the current contract period to be considered for reauthorization and to continue accepting WIC benefits. Expiration of this contract is not subject to Appeal or Administrative Review.

#### XIII. NON-TRANSFERABILITY

This contract is between the Department and the Vendor, named herein, and is not transferable between owners or establishments. This contract is null and void upon change of ownership or location greater than an allowable distance as determined by the Department. A new application and WIC Pharmacy Vendor Contract must be completed and approved by the Department before the new owner is authorized to participate in the WIC Program.

The Vendor must notify the Department in writing prior to a change in Vendor ownership, store location, or cessation of operations. Change of ownership is defined as a change in business structure that requires a change in Federal Identification Number (FIN); change of location is defined as a move from the authorized business location to a distance greater than 0.5-mile radius in an urban area or 2.5-mile radius in a rural area. The Department, in its sole discretion, may determine whether a change in location qualifies as an allowable distance and whether a change in business structure constitutes a change in ownership.

#### XIV. CHAIN CONTRACTS

Only those Vendors (i.e., store locations) specified on attachments to this contract are authorized to accept WIC benefits.

## XV. LIMITATION POLICY

The approval of this contract is subject to the availability of funds.

The Department reserves the right to limit the number of Vendors authorized for the WIC Program in accordance with MI-WIC Vendor Policy 2.04 Vendor Limitation Policy.

## XVI. VENDOR SANCTION SCHEDULE

Violations of the terms and conditions of the WIC Pharmacy Vendor Contract will be enforced in accordance with the WIC Vendor Sanction Schedule (Exhibit 6.01A), which is hereby made a part of this contract. The Vendor acknowledges receipt of a copy of the most recent WIC Vendor Sanction Schedule. In its sole discretion, the Department may issue revisions to the WIC Vendor Sanction Schedule as determined necessary.

## XVII. EXPIRATION, TERMINATION OF CONTRACT AND DISQUALIFICATION FROM WIC PROGRAM

Expiration is when a contract between the Department and a Vendor ceases to be effective because the end date as specified in the contract has been reached. This is not subject to Appeal or Administrative Review.

Termination is the ending by either party of the contract between the Department and an authorized WIC Vendor. Notification of the termination action will be mailed to the affected party at least 21 calendar days in advance of the effective date of the action as appropriate.

Disqualification is an action taken by the Department for ending a Vendor's eligibility to participate in the WIC Program for a specific period of time or permanently, for cause.

Considerations for issuing a termination or a termination and disqualification by the Department include, but are not limited to:

1. Failure of a Vendor to comply with conditions and responsibilities set forth in this contract, and subsequent revisions to these documents.
2. Civil Money Penalty in lieu of termination and disqualification.

The Department may, in its sole and exclusive discretion, impose a Civil Money Penalty in lieu of termination and disqualification if it is determined that such disqualification will have an adverse impact on participant accessibility.

The Department will not impose a Civil Money Penalty in lieu of permanent disqualification for Vendors convicted of trafficking in WIC benefits or selling firearms, ammunition, explosives, or controlled substances (as defined in Section 102 of the Controlled Substance Act (21 USC 802) in exchange for WIC benefits).

## XVIII. APPEALS

The Vendor has the right to an Administrative Hearing or an Administrative Review of certain eligible adverse actions by the Department, as defined in Federal Regulations and MI-WIC Vendor Policy 7.02 Adverse Actions Subject to Appeal. Policy 7.02 establishes

those adverse actions which:

1. May be appealed through administrative review;
2. May be appealed through administrative hearing; or
3. Are not appealable.

MI-WIC Vendor Policies 7.03 Administrative Review and 7.04 Administrative Hearings establish a process by which a Vendor may request administrative review or administrative hearing.

**XIX. PENALTY**

A Vendor that commits fraud or abuse of the WIC Program is liable for prosecution under applicable Federal, State and Local laws. Vendors who have willfully misapplied, stolen, or fraudulently obtained WIC funds are subject to a fine of not more than \$25,000.00, imprisonment for not more than five years or both. If the value of the funds is less than \$100.00, then the penalties are a fine of not more than \$1,000.00, imprisonment for not more than one year or both.

If the Department discovers evidence of a Vendor committing criminal fraud or abuse in the WIC Program, the Department must provide such evidence to appropriate law enforcement authorities.

**XX. SNAP RECIPROCAL DISQUALIFICATIONS**

The Department will disqualify a Vendor if the Vendor has been disqualified from SNAP. The disqualification must be for the same length of time as the SNAP disqualification, may begin at a later date than the SNAP disqualification, and is not subject to an administrative hearing or review under the WIC Program.

**XXI. SEVERABILITY AND WAIVER**

If any provision of this contract or any provision of any document attached to or incorporated by reference is waived or held to be invalid, such waiver or invalidity will not affect other provisions of this agreement. Failure to enforce any provision of this Contract will not constitute a waiver.

If this contract is terminated due to voluntary withdrawal or store closure, such termination is not subject to appeal. This includes ceasing operation for any reason except, upon written notification to the Department, temporary closure resulting from casualty losses, natural disaster, or renovation for improvements as set out in the State Plan of Program Operation and Administration and any subsequent revisions. In instances of temporary closure, the Vendor will be temporarily disabled, for a period of up to 12 months, and unable to transact until written notice requesting re-enablement is received by the Department without affecting the status of the WIC Pharmacy Vendor Contract. In accordance with Federal Regulations, this contract will not be eligible for termination due to voluntary withdrawal if it is determined by the Department that such termination is for the purpose of circumventing a sanction (7 CFR 246.12(l)(1)(viii)).

## XXII. ASSURANCES

In accordance with federal civil rights law and U.S. Department of Agriculture (USDA) civil rights regulations and policies, this institution is prohibited from discriminating on the basis of race, color, national origin, sex (including gender identity and sexual orientation), disability, age, or reprisal or retaliation for prior civil rights activity.

Program information may be made available in languages other than English. Persons with disabilities who require alternative means of communication to obtain program information (e.g., Braille, large print, audiotape, American Sign Language), should contact the responsible state or local agency that administers the program or USDA's TARGET Center at (202) 720-2600 (voice and TTY) or contact USDA through the Federal Relay Service at (800) 877-8339.

To file a program discrimination complaint, a Complainant should complete a Form AD-3027, USDA Program Discrimination Complaint Form which can be obtained online at: <https://www.usda.gov/sites/default/files/documents/USDA-OASCR%20P-Complaint-Form-0508-0002-508-11-28-17Fax2Mail.pdf>, from any USDA office, by calling (866) 632-9992, or by writing a letter addressed to USDA. The letter must contain the complainant's name, address, telephone number, and a written description of the alleged discriminatory action in sufficient detail to inform the Assistant Secretary for Civil Rights (ASCR) about the nature and date of an alleged civil rights violation. The completed AD-3027 form or letter must be submitted to USDA by:

1. **mail:** U.S. Department of Agriculture  
Office of the Assistant Secretary for Civil Rights  
1400 Independence Avenue, SW  
Washington, D.C. 20250-9410; or
2. **fax:** (833) 256-1665 or (202) 690-7442; or
3. **email:** [program.intake@usda.gov](mailto:program.intake@usda.gov)

Assurance is hereby given to the Department that the Vendor will comply with 45 CFR Part 76 regarding debarment and suspension and certifies to the best of its knowledge and belief that the Vendor:

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from covered transactions by any Federal Agency or Contractor.
2. Within a three-year period preceding this contract, has not been convicted of or had a civil judgment rendered against them for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State, or Local) transaction or contract under a public transaction; violation of Federal or State antitrust statutes or commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property.
3. Is not presently indicted or otherwise criminally or civilly charged by a government entity (Federal, State or Local) with commission of any offenses.

4. Within a three-year period preceding this contract, has not had one or more public transactions (Federal, State or Local) terminated for cause or default.

**XXIII. PREVIOUS CONTRACT VIOLATIONS – CARRY-OVER**

Any administrative violation points as defined in Section I of the WIC Vendor Sanction Schedule, and any documented incidences of sanctions as defined in Sections II and III of the WIC Vendor Sanction Schedule which occurred during the previous contract period may be carried over and used as a basis for termination and/or disqualification or other sanctions under this or any subsequent contracts, in accordance with the most recent WIC Vendor Sanction Schedule.

Further, any administrative violation points as defined in Section I of the WIC Vendor Sanction Schedule, and any documented incidences of sanctions as defined in Sections II and III of the WIC Vendor Sanction Schedule which occur during this contract period may be carried forward into a future contract and used as a basis for termination and disqualification or other sanctions under any subsequent contracts, in accordance with the most recent WIC Vendor Sanction Schedule.

**XXIV. CONFIDENTIALITY/SAFEGUARDING OF INFORMATION**

1. Vendor may not disclose, either orally or in writing, any confidential information subject to applicable provisions of 7 CFR 246.26 and other federal and state laws and administrative rules governing confidentiality.
2. Vendor agrees to limit access to confidential information to the minimum amount of information necessary, to the fewest number of people, for the least amount of time required.
3. The obligations set forth in this clause survive completion, cancellation, expiration, or termination of this Contract.

**XXV. SPECIAL CERTIFICATION**

The Vendor, through signature of the owner or an authorized representative, accepts all terms of this contract. The individuals signing this contract certify that they are authorized to sign the contract on behalf of the Vendor and the Department, respectively, and that all information provided on the Vendor's application is true, accurate and complete. This contract becomes valid only upon signature by an authorized representative of the Department.

**XXVI. EFFECTIVE DATE**

Unless otherwise specified under period of performance, the effective date of this Contract and subsequent amendments, if any, is the date of execution. The date of execution is the date of signature by an authorized representative of the Department.

**XXVII. ENTIRE AGREEMENT**

This contract, with amendments, embodies the whole contract of the parties and contains all the terms and conditions agreed upon by the parties. It supersedes all previous

communications, representations, or agreements, either oral or written.

**VENDOR – Please complete all 4 areas below marked with an X:**

X \_\_\_\_\_ X \_\_\_\_\_  
Print Your Name (NOT the store name) Print Your Title

X \_\_\_\_\_ X \_\_\_\_\_  
Signature Date

**\*\*\*\*\* WIC OFFICE USE ONLY \*\*\*\*\***  
**DO NOT WRITE IN THIS BOX**

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES:**

**Recommended By:**

\_\_\_\_\_  
Name Title

\_\_\_\_\_  
Signature Date

**Bureau of Grants and Purchasing**  
**Approval By:**  
**Jeanette Hensler**  
**Director, Grants Division, Bureau of Grants and Purchasing**

\_\_\_\_\_  
Signature Date

This institution is an equal opportunity provider.