WIC Vendor #_________

WIC VENDOR AGREEMENT

This agreement is entered into on the ___ day of ________, _____ between the Oklahoma State Department of Health (OSDH), by virtue of authority granted to it in 63 O.S §1-106 and, ______________________ by and through its owner/officer, hereinafter Vendor. The purpose of this agreement is to provide authorized foods to eligible persons through the Special Supplemental Nutrition Program for Women, Infants and Children (WIC).

A. The Vendor agrees to ensure availability, continuity of supply and reasonable (as determined by OSDH) prices, by purchasing WIC stock at wholesale prices through wholesale distributor and/or dairy distributors that have the ability to supply the types and brands of product specified on the current OSDH/WIC approved food list. The Vendor further agrees to complete and submit retail price lists as requested by OSDH and remain competitively priced on all WIC approved foods.

B. The Vendor agrees to the following minimum stocking requirements:

1. <u>Infant Formula</u>: (Abbott)
    - At least twenty-four (24) 12.4 oz. cans Powder <u>Similac Advance, UPC: (070074559582).</u>
    - At least eighteen (18) 12.6 oz. cans Powder <u>Similac Gentle Comfort, UPC: (070074626000).</u>
2. <u>Infant Cereal</u>: (Any Brand) (8 oz. or 16 oz. size)
    - At least two (2) single grain varieties <u>without fruit</u>.
    - At least six (6) 8 oz. boxes each type.
3. <u>Infant Fruits and Vegetables</u>: (Any Brand)
    - At least three (3) varieties of Stage 2, 4 oz. or 8 oz. 2-pack infant fruits.
    - At least twenty (20) single pack or ten (10) 2-packs each type.
    - At least three (3) varieties of Stage 2, 4 oz. or 8 oz. 2-pack infant vegetables.
    - At least twenty (20) single pack or ten (10) 2-packs each type.
4. <u>Milk</u>: (Whole Milk, Low Fat (1%) Milk) (least cost available)
    - At least eight (8) gallon containers of whole milk.
    - At least eight (8) gallon containers of low-fat (1%) milk.
5. <u>Eggs</u>:(One (1) dozen Medium or Large White Grade A or AA)
    - At least six (6) dozen.
6. <u>Real Cheese</u>: (least cost available)
    - At least six (6) packages 16 oz. sliced American cheese.
    - At least six (6) packages 16 oz. cheddar, colby, mozzarella, or monterey jack (chunk, etc).
7. <u>Adult Cereal</u>:
    - At least eight (8) cold and two (2) hot varieties of OSDH/WIC approved cereals.
    - At least four (4) boxes each type.
    - At least one (1) cold cereal and one (1) hot cereal must be a whole grain cereal
8. <u>Beans or Peas</u>: (canned and dry sixteen (16) oz. package (no added flavors or mixtures)
    - At least two (2) varieties canned
    - At least six (6) cans each type.
    - At least two (2) varieties dry.
    - At least six (6) packages each type.
9. <u>Tuna</u> (any brand):
    - 5 oz. cans; light, dark or blended, flake or grated.
    - At least eight (8) cans water or oil packed.
10. Fresh Fruits and Vegetables:
    - At least five (5) different categories of fresh fruits (i.e. Apples, Grapes, Oranges, etc…).
    - At least five (5) pounds of each fresh fruit.
    - At least five (5) different categories of fresh vegetables (i.e. Lettuce, Tomatoes, Onions, etc…).
    - At least five (5) pounds of each fresh vegetable.

11. Whole Wheat Bread or Whole Grain Bread: (12-24 oz. Loaves of Whole Wheat or Whole Grain Bread)
    - At least ten (10) loaves whole wheat bread, or
    - At least ten (10) loaves whole grain bread.

C. Vendor Responsibilities:

Vendor shall follow procedures as outlined in the WIC Vendor Handbook including but not limited to:

1. Accept electronic WIC (eWIC) food benefits or cash value benefits (FBs or CVBs) only from WIC participants, parents, or caretakers of infant and child participants, or proxies.
2. Ensure not to require WIC participants, parents, or caretakers of infant and child participants, or proxies to use special checkout lanes that are not used by any other customer.
3. Provide only the authorized supplemental foods listed on the eWIC beginning balance receipt. Ensure not to provide unauthorized food items, non-food items, cash, or credit (including rain checks) in exchange for eWIC cards or eWIC FBs or CVBs. Ensure to utilize only OSDH approved shelf talkers to identify WIC approved foods.
4. Ensure eWIC benefits are not accepted after the expiration date printed on the cash register receipt.
5. Ensure the actual purchase price for each WIC approved benefit is entered into the cash register or point of sale (POS) device at the time of the eWIC transaction. eWIC purchase price must include only the authorized supplemental food items actually provided.
6. Ensure that no eWIC benefits purchases are allowed without the use of a valid Personal Identification Number (PIN) to validate the eWIC Purchase.
7. Ensure not to demand that WIC participants, parents, or caretakers of infant and child participants, or proxies purchase the full amount of eWIC FBs or CVBs.
8. Ensure to never limit WIC participants, parents, or caretakers of infant and child participants, or proxies in their choices of WIC authorized foods (e.g., never require purchase of a particular store brand, when their option is open to any brand for that food category).
9. Ensure not to provide refunds or permit exchanges for authorized supplemental foods obtained with eWIC FBs or CVBs, except for exchanges of an identical authorized supplemental food item when the original authorized supplemental food item is defective, spoiled, or has exceeded its sell/use date and only for the exact same brand & size supplemental food item.
10. Offer WIC participants, parents, or caretakers of infant and/or child participants, and proxies the same courtesies as offered to other customers, including the issuance of trading stamps and special manufacturer or store promotions (coupons). Conversely, the Vendor does not have to endure abuse from WIC participants. The Vendor should report incidents of abuse by WIC participants to OSDH.
11. Provide WIC approved foods to WIC participants, parents, or caretakers of infant and child participants, or proxies at a price that is no higher than the price charged to non-WIC participants.
12. Vendor is prohibited from scanning (or manually entering) any UPC code that is not affixed to the actual item being purchased by the WIC participants, parents, or caretakers of infant and child participants, or proxies, or any UPC code as a substitute, replacement or otherwise not actually affixed to the actual item being purchased by the WIC participants, parents, or caretakers of infant and child participants, or proxies.

13. Ensure that the price affixed to the scanned (or manually entered) UPC code in the point of sale device is not greater than the price displayed on the package, container, shelf or other signage in the store for the purchased item. This may be verified by the WIC Program representative scanning the actual UPC code affixed to a WIC approved item and comparing that price to the price marked on the package, container, shelf or other signage of that same item. Vendor is responsible for updating price changes in the point of sale device including, but not limited to, changes due to sales or other promotions, to ensure compliance with this item.
14. Ensure no sales tax may be charged for purchases made with eWIC FBs or CVBs. Exception for CVBs: Only the amount of purchase above the total value of a CVB may be taxed.
15. Ensure not to charge WIC participants, parents, or caretakers of infant and child participants, or proxies for authorized supplemental food obtained with eWIC FBs or CVBs. Exception for CVBs: WIC participants, parents, or caretakers of infant and child participants, or proxies may pay the difference (amount above the total value of a CVB) of the fruit and vegetables on CVBs only. WIC participants, parents, or caretakers of infant and child participants, or proxies must be allowed to complete this payment through the process of split tender to include Supplemental Nutrition Assistance Program (SNAP) and all other forms of payments accepted by the vendor. No cash change shall be issued to WIC participants, parents, or caretakers of infant and child participants, or proxies for purchases less than the total value of a CVB. No cash change shall be issued for any purchases using eWIC FBs.
16. Ensure not to seek restitution from WIC participants, parents, or caretakers of infant and child participants, or proxies for any eWIC benefits not paid or partially paid by OSDH.
17. Accept training and agree to train the managers and all employees involved in eWIC FBs or CVBs transactions in the proper procedures for accepting and processing eWIC FBs or CVBs. Interactive training must be done before or at initial authorization and at least once every three years thereafter. OSDH will designate the date, time and location of the training. OSDH will provide the Vendor with at least one alternative date on which to attend training. At least one representative of the Vendor's staff must participate in the interactive training. Newly authorized WIC Vendors will receive interactive training from OSDH prior to accepting eWIC FB and CVB transactions. Formats for annual training can include newsletters, videos, and interactive training.
18. Ensure to inform and train cashiers and other staff on the program requirements.
19. Accept accountability for its owners, officers, managers, agents and employees who violate the terms of this agreement or the procedures as stated in the WIC Vendor Handbook.
20. Allow WIC Program representatives to observe eWIC FBs or CVBs redemption procedures and to conduct unannounced on-site monitoring visits to ensure the vendor complies with all program requirements. Failure to allow these visits of the store or any other monitoring for compliance with program requirements shall result in termination from the WIC Program.
21. Maintain inventory records used for Federal tax reporting purposes. Ensure that authorized personnel of OSDH, the State Auditor and Inspector or any other state or federal government entity designated by OSDH shall have the right of access to any and all documents, books, papers, or accounting procedures which are relevant to the performance or payment of this agreement. The Vendor also agrees to provide access to purchase invoices and shelf price information of WIC approved items on request of OSDH at the time of on-site visits or for a three-year period prior to the date of request.
22. Comply with the vendor agreement and Federal and State statutes, regulations, policies, and procedures governing the Program, including any changes made during the vendor agreement period. OSDH shall notify vendors of any changes to Federal or State statutes, regulations, policies, or procedures governing the Program before the changes are implemented. OSDH will provide vendors as much advance notice as possible.
23. Accept all certified mail sent by OSDH.
24. Ensure that all infant formula is purchased through an infant formula supplier listed on the OSDH approved licensed manufacturer, wholesaler, distributor, and retailer list. Notify in writing the OSDH within fifteen (15) calendar days if the primary source of infant formula changes from what was previously reported as part of the application or reauthorization process.

25. Comply with the non-discrimination provisions of Department regulations (Parts 15, 15a, 15b, and 16 of this title). Comply with the requirements of the Americans with Disabilities Act (ADA). The Vendor shall also comply with the non-discrimination requirements of the USDA. In accordance with Federal Law and the U.S. Department of Agriculture policy, this institution is prohibited from discriminating on the basis of race, color, national origin, sex, age or disability, or reprisal or retaliation for prior civil rights activity in any program or activity conducted or funded by USDA. Any failure by the Vendor to abide by this regulation shall result in immediate cancellation of his participation in the WIC Program. Persons with disabilities who require alternative means of communication for program information (Braille, large print, audiotapes, etc.) should contact the Agency (State or local) where they applied for benefits, Individuals who are deaf, hard of hearing or have speech disabilities may contact USDA through the Federal Relay Service at (800) 877-8339. Additionally, program information may be available in languages other than English.

D. Vendor Sanctions:
The Vendor agrees that OSDH has the right to sanction the vendor for program abuse or for failure, neglect or refusal to perform any of the conditions of this agreement.
1. **Federal Mandatory Vendor Sanctions see Vendor Handbook, sect. E. (2) Sanctions and Appeals 310:410-3-51 (A).**
2. **State Vendor Violations see Vendor Handbook, sect. E. (2) Sanctions and Appeals 310:410-3-51(B).**
3. **State Vendor Sanctions see Vendor Handbook, sect. E. (2) Sanctions and Appeals 310:410-3-52(B)**.

E. Administrative Review Procedures
See 7 CFR 246.18 (https://drive.google.com/file/d/1pCoOQvGzhLFAYS_nzA5A8ISiUGKmIQ7F/view?usp=sharing).

F. The Vendor understands that OSDH may make price adjustments to the purchase/requested price on eWIC benefits transactions submitted by the vendor for payment to ensure compliance with the allowable reimbursement level applicable to the vendor.

G. The Vendor understands that other sanctions and/or consequences allowed by law and rules include but are not limited to: forfeiture of authorization to participate in the WIC Program, offset against payment based on previous overpayment, repayment of the full amount of Vendor's reimbursement for cash, unauthorized foods, or other items of value to recipients in lieu of authorized supplemental foods, repayment of the full amount of the difference between the Vendor's customary price and the cost charged to OSDH when the Vendor charges the Program more for supplemental foods than other customers for the same food items; and the assessment of the reasonable administrative costs as determined by OSDH. The Vendor has the right to appeal any decision under this section where permissible under 7 CFR 246.18 of WIC Program regulations. Actions not subject to administrative review include (but are not limited to): disputes regarding FB or CVB payments and vendor claims (other than the opportunity to justify or correct a vendor overcharge or other error, as permitted by 7 CFR 246.12(k)(3);

H. The Vendor acknowledges that, in addition to any sanction and/or consequence under this agreement, a vendor who commits fraud or abuse in the WIC Program is liable to prosecution under applicable Federal, State or local laws. Those who have willfully misapplied, stolen or fraudulently obtained program funds will be subject to a fine of not more than $25,000 or imprisonment for not more than five years or both, if the value of the funds is $100 or more. If the value of the funds is less than $100, the penalties are fine of not more than $1,000 or imprisonment for not more than one year or both.

I. The Vendor understands that when OSDH determines a vendor violation that affects the payment to the vendor, OSDH shall establish a claim. OSDH may establish a claim in the amount of the full purchase of each **eWIC FB or CVB** that contained the vendor overcharge or other error. The vendor must pay any claim assessed by OSDH. In addition to assessing a claim, OSDH may assess reasonable administrative costs. The Vendor does not have the right to appeal any decision under this section (other than the opportunity to justify or correct a vendor overcharge or other error – see section E).

J. The Vendor understands that disqualification from the SNAP will result in an automatic disqualification from OSDH/WIC Program. 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 the Vendor does not have the right to appeal any decision under this section.

K. The Vendor understands that if OSDH determines that disqualification of the vendor for a SNAP disqualification would result in inadequate WIC participant access, OSDH shall impose a CMP in lieu of WIC disqualification. However, as provided in paragraph (l)(1)(vi) of 7 CFR 246.12, the State Agency may not impose a civil money penalty in lieu of disqualification for third or subsequent sanctions for violations in paragraph (l)(1)(ii) through (l)(1)(iv) of 7 CFR 246.12. The Vendor has the right to appeal any decision under this section.

L. The Vendor understands that OSDH has the right to disqualify a vendor who has been assessed a CMP for hardship in the SNAP, as provided under 7 CFR 278.6. The length of such disqualification shall correspond to the period for which the vendor would otherwise have been disqualified in the SNAP. The Vendor has the right to appeal any decision under this section.

M. The Vendor understands that violations that lead to disqualification from the WIC Program may result in disqualification as a retailer in the SNAP. Such disqualification may not be subject to administrative or judicial review under the SNAP. Further, a vendor's previous non-compliance with WIC Program Policy and/or Procedures will be considered when renewing the agreement with the vendor and may be used as criteria in determining whether the vendor is eligible for renewal.

N. The Vendor acknowledges that he/she has a current OSDH Food Service Establishment License and that he/she is in substantial compliance with the rules governing food establishments.

O. The Vendor understands that the vendor agreement does not constitute a license or a property interest.

P. The Vendor understands that he/she shall have to re-apply for authorization at the end of the current vendor agreement period.

Q. The Vendor shall comply with the vendor selection criteria throughout the vendor agreement period, including any changes to the criteria. Using the current vendor selection criteria, OSDH may re-assess the vendor at any time during the vendor agreement period. OSDH shall terminate the vendor agreement if the vendor fails to meet the current vendor selection criteria.

R. The Vendor shall comply with the competitive pricing and Maximum Allowable Reimbursement (MAR) criteria throughout the vendor agreement period, including any changes to the criteria. MAR for Regular Vendors is equal to the average price for the item category/subcategory (or UPC for some food items) among that vendor's peer group plus ten (10) percent MAR for Above 50% Vendors is equal to the statewide average price for the item category/subcategory (or UPC for some food items) among all Regular Vendors.

S. OSDH reserves the right to terminate a vendor whose WIC Program business is insufficient to warrant continued participation. WIC Program business is measured by dollar amounts redeemed for a specified time period.

T. Vendor assures that no conflict of interest with OSDH or local WIC Program exists as a result of the execution of this vendor agreement. OSDH shall terminate the vendor agreement if a conflict of interest, as defined by applicable State laws, regulations, and policies, between the vendor and OSDH or its local agencies are identified.

U. Vendor shall notify OSDH within fifteen (15) days of when the vendor ceases operation, ownership changes or location (address) changes. This agreement is null and void if the ownership changes. This agreement is non-transferable.

V. OSDH shall immediately terminate the vendor agreement if it determines that the vendor has provided false information in connection with its application for authorization. Either OSDH or the Vendor may terminate the vendor agreement for cause after providing a fifteen (15) calendar day advance written notice.

W. The WIC acronym and logo have been registered and trademarked by the U.S. Department of Agriculture. For-profit organizations are not permitted to display the WIC acronym or logo, including close facsimiles thereof, in total or part, on product labels or packages, signs, pamphlets, brochures or any proprietary materials they might produce. Exceptions: WIC authorized Vendors are supplied and shall display the “WIC Authorized Vendor” signs in a conspicuous place at all times. In addition, WIC authorized Vendors are supplied with Oklahoma WIC shelf-talkers to identify WIC Approved Foods. Also, WIC authorized Vendors may with prior approval produced their own WIC shelf-talkers to identify WIC Approved Foods.

X. Vendor understands not to provide incentive items or other free merchandise, except food or merchandise of nominal values (defined as less than $2.00 by USDA), to program participants unless the vendor provides to the OSDH WIC Service proof that the vendor obtained the incentive items or merchandise at no cost. Vendor must get prior approval from OSDH for any and all incentive items or other free merchandise. **Vendor must provide these same incentives to all non-WIC customers as well.**

Y. EBT minimum lane coverage, Point of Sale (POS) terminals used to support the WIC Program shall be deployed in accordance with the minimum lane coverage provisions of §246.12(z)(2). OSDH WIC Program may remove excess terminals if actual redemption activity warrants a reduction consistent with the redemption levels outlined in §246.12(z)(2)(i) and (z)(2)(ii).

Z. EBT third-party processing (TPP) costs and fees, the Vendor shall not charge to OSDH any TPP costs and fees incurred by the Vendor from EBT multi-function equipment. Commercial transaction processing costs and fees imposed by a TPP that the Vendor elects to use to connect to the eWIC system of OSDH shall be borne by the Vendor.

AA. EBT interchange fees, OSDH shall not pay or reimburse the Vendor for interchange fees related to eWIC transactions.

BB. EBT ongoing maintenance and operational costs, OSDH shall not pay for ongoing maintenance, processing fees or operational costs for vendor systems and equipment used to support eWIC after OSDH has implemented eWIC statewide, unless the equipment is used solely for the OSDH WIC Program. This provision also applies to authorized farmers and farmers’ markets.

CC. Compliance with EBT operating rules, standards and technical requirements, the Vendor must comply with the operating rules, standards and technical requirements established by OSDH. Available here: https://fns-prod.azureedge.net/sites/default/files/wic/WIC-EBT-Operating-Rules-September-2014.pdf.

DD. When OSDH disqualifies a vendor, it must terminate the vendor agreement. OSDH may not accept voluntary withdrawal of the vendor as an alternative to disqualification for mandatory Federal sanctions. OSDH must enter the disqualification in the vendor’s record. Additionally, OSDH may not use nonrenewal of the vendor agreement as an alternative to disqualification.

This agreement shall commence on ____ day of___________, __________ and shall be valid through the 30th day of September 2027. Vendor must reapply at the expiration of this agreement. OSDH will provide the vendor not less than 15 days advance written notice of the expiration of this agreement. Neither party to this agreement is obligated to renew the agreement; thus, non-renewal of this agreement by either party may be without cause. In the event of non-renewal due to expiration of the vendor agreement, the Vendor shall not be entitled to a hearing or an appeal to contest the non-renewal.

VENDOR

Authorized By:

____
State Department of Health

____
Title Date

Corporation or Store: ________________
____
____
____
____

*________________________________
Owner/Corporate Officer Signature

____
Title Date

____
Vendor Federal ID Number

STATE OF ________________)
)ss
COUNTY OF____________________)

The undersigned individual, of lawful age, being duly sworn an oath says, that (s)he is the agent authorized by the vendor to submit this agreement to the State of Oklahoma. Affiant further states that the vendor has not paid, given, or donated or agreed to pay, give or donate to any officer or employee of the State of Oklahoma any money or other thing of value, either directly or indirectly, in the procuring of the agreement. I have not previously entered into an agreement with the agency or any other state agency, which would result in a substantial duplication of the final product required, by the proposed agreement.

*________________________________
Owner/Corporate Officer Signature

Subscribed and sworn to before me this______ day of ________________, 20_______.

My Commission Expires: _____________________ ________________________________
Notary Public Signature