

INTER TRIBAL COUNCIL OF ARIZONA, INC.
SUPPLEMENTAL NUTRITION PROGRAM FOR
WOMEN, INFANTS AND CHILDREN (WIC)

VENDOR CONTRACT

1. PARTIES

Vendor Name
(Legal Name of Store): _____

Doing Business As: _____

Name of Owner: _____

Federal Employer
Identification Number: _____

The Inter Tribal Council of Arizona, Inc. (ITCA) is an Arizona non-profit corporation authorized by the United States Department of Agriculture (“USDA”) to serve as a “state agency” for purposes of administering the Special Supplemental Nutrition Program for Women, Infants and Children (“WIC”).

The purpose of this Vendor Contract (“Contract”) is to provide authorized Vendors at which WIC clients, parents or caretakers of infant and child clients or proxies (hereafter collectively referred to as “clients”) can obtain authorized WIC foods, and to provide the terms and conditions for Vendors and the state agency to follow during transactions arising out of this Contract.

2. CONTRACT PERIOD

This Contract by and between ITCA and the above named Vendor is effective **October 1, 2015**, or the date when it is signed by ITCA, whichever date is later. If not terminated earlier, this Agreement shall terminate on **September 30, 2018**. Neither the Vendor nor ITCA is obligated to renew this Contract or enter into a new Contract at the expiration or the termination of this Contract.

3. GENERAL TERMS

- A. The federal statutes and regulations that govern the WIC Program, the ITCA WIC Program Vendor Manual (“Vendor Manual”) and any amendments or additions thereto, and the WIC Policy and Procedure Manual (“Policy and Procedure Manual”) and any revisions thereto are incorporated in this Contract by reference.

- B. If any provision of this Contract conflicts with federal statutes or regulations that govern the WIC program, the federal statutes or regulations shall govern. If any provision of this Contract conflicts with the Vendor Manual, the Vendor Manual shall prevail. If any provision of this Contract conflicts with the Policy and Procedure Manual, the Policy and Procedure Manual shall prevail.
- C. Any provision of this Contract or any document attached or incorporated by reference that is waived or held to be invalid shall be severable from the remainder of this Contract and shall not affect any other provisions of this Contract. Any provision to this Contract that is found to be prohibited by law shall be severable and shall be in effect only to the extent such provision complies with the law.
- D. Arizona law shall govern all aspects of this Contract not covered by federal statutes or regulations or the Vendor Manual, or the Policy and Procedure Manual.
- E. This Contract, Appendices and all incorporated documents represent the entire agreement between the Vendor and ITCA. No condition or requirement contained in, or made a part of, this Contract shall be modified without an approved written amendment to this Contract. Amendments shall be effective only if in writing and signed by all parties to the Contract. The terms and provisions of this Contract shall remain in full force and effect except as amended and to the extent so amended. In the event that the Vendor does not sign an amendment to this Contract within thirty (30) days of receipt of the amendment, the Vendor shall be terminated from participation in the ITCA WIC Program
- F. Vendor acknowledges and agrees to negotiate in good faith with ITCA to develop any necessary amendments to this Contract due to ITCA's obligation to implement an Electronic Benefits Transfer (EBT) system on or before the year 2020, as required by amendments to the Child Nutrition Act of 1966 and applicable law.
- G. This 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 Vendor is disqualified, ITCA will terminate the Vendor Contract, and the Vendor will have to reapply in order to be authorized after the disqualification period is over. In all cases, the Vendor's new application will be subject to the ITCA's vendor selection criteria and any vendor limiting criteria in effect at the time of the reapplication.
- H. The Vendor shall be considered an independent contractor, not an agent of ITCA, or the United States Government.
- I. ITCA is a private non-profit Arizona corporation but enters this Contract as an authorized WIC state agency. ITCA is protected to the full extent of the law from any liability as a state agency.

Vendor agrees to waive any and all claims and causes of action which it may have against ITCA but which could not be pursued against a state agency.

- J. Vendor must maintain all data and records of clients served under this Contract as confidential. All data and records are proprietary and the property of ITCA and are deemed a “record” or a “system of records” as defined by the Federal Privacy Act, 5 USC §552a. Vendor agrees not to release or allow the use of such data or records by any other person including governmental agencies without the prior written approval of ITCA.
- K. The Vendor shall, at all times, indemnify, defend and hold harmless ITCA/or any of its agents, officials and employees from any and all claims, demands, suits, actions, proceedings, losses, costs and/or damages of every kind and description, including attorney’s fees and/or litigation expenses brought or made against or incurred by ITCA on account of loss of or damage to any property or for injuries to or death of any person, caused by, arising out of, or contributed to, in whole or in part, by reasons of any alleged act, omission, professional error, fault, mistake, or negligence of the Vendor, its employees, agents or representatives, or subcontractors, their employees agents or representatives in connection with or incident to the performance of this Contract or arising out of workers compensation claims, or unemployment compensation claims of employees of the Vendor and/or its subcontractor or claims under similar such laws or obligations. The Vendor’s obligations and responsibilities under this section shall not extend to any liability caused by the sole gross negligence or criminal acts of ITCA or its employees.
- L. The Vendor shall indemnify, defend and hold harmless the USDA and ITCA from any claim, liability or expense caused by the Vendor’s violation of or default under this Contract.
- M. ITCA may, at any time, by written stop work order to the Vendor, require the Vendor to stop all or any part of the work called for by this contract for the period indicated on the stop work order.
 - 1. Upon receipt of the stop work order, the Vendor shall immediately comply with its terms and take all reasonable steps to minimize the incurrence of costs allocable to the work covered by the order during the period of work stoppage; and
 - 2. If a stop work order issued under the clause is cancelled or the period of the stop work order or any extension expires, the Vendor shall be notified in writing by ITCA when to resume work.

4. VENDOR RESPONSIBILITIES

A. General Vendor Responsibilities

In addition to the other requirements of this Contract and applicable law, the Vendor shall comply with:

1. This Contract and the ITCA WIC Program Vendor Manual, and any subsequent amendments or additions thereto.
2. Federal and state statutes (including 42 U.S.C. § 1786) and regulations (including (USDA) regulations 7 C.F.R. § 246.12 et. seq.) that govern the WIC program, including any subsequent amendments.
3. The ITCA WIC Program Policy and Procedure Manual and any amendments or changes thereto, which shall not require written modification of this Contract to be effective.
4. The Vendor selection criteria throughout the Contract period for each store and/or outlet at the time of signing this contract. ITCA may change the selection criteria at any time during the term of this contract. Vendor must comply with the changes within fifteen (15) days of receipt of the notice of changes. Using the current Vendor selection criteria, ITCA may reassess the Vendor at any time during the Contract period. ITCA will terminate and/or disqualify the Vendor if the Vendor fails to meet the current selection criteria. The Vendor may also be subject to other sanctions including termination, administrative fines, disqualification, civil money penalties, and any combination of sanctions, according to the Sanction Schedule of the Vendor Manual.

B. Additional Specific Vendor Requirements

In addition to the other requirements of this Contract and applicable law, the Vendor shall:

1. Have at least one representative participate in training annually. Vendor training may be provided by ITCA personnel or persons authorized by ITCA in a variety of formats, including newsletters, videos, and face-to-face training. ITCA will have sole discretion to designate the date, time, and location of all face-to-face training, except that ITCA will provide the Vendor with at least one alternative date on which to attend such training. ITCA may, at its discretion provide additional training for Vendors and Vendor staff as necessary to ensure compliance with Vendor requirements. This training may take place at a date, time and place as designated by ITCA.
2. Train and update cashiers and other employees who handle WIC purchases on WIC program requirements and provide special or additional training to employees as required by ITCA to ensure WIC Program compliance. Vendor may be monitored for compliance with program requirements.
3. Be held responsible and accountable for the actions or inactions of its owners, officers, managers, agents, and employees who commit Vendor Violations.

4. Maintain the required types and amounts of WIC authorized foods at all times. The required types and amounts of WIC authorized foods are found in the most current ITCA WIC Programs Food List and the Vendor Manual (Section 2-Minimum Stock Requirements).
5. Only purchase infant formula from the list of infant formula manufacturers, licensed wholesalers, licensed retailers or licensed distributors provided by ITCA.
6. Maintain the minimum required stock from the date it submits its application to be a Vendor and, if authorized, throughout the entire contract period. ITCA may provide an exception to the minimum stocking requirements under certain circumstances for certain food types of infant formula or foods if the clients in the geographic vicinity of Vendor do not need those foods. The exception may be revoked by ITCA at any time.
7. Electronically submit WIC Vendor Price/Stock Report forms as required by ITCA.
8. Possess and maintain a current electronic mail address through which most correspondence with the ITCA will be conducted.
9. Provide quality fresh food items and maintain its store in a clean and sanitary manner by:
 - a. Keeping freezer and refrigeration equipment that stores WIC authorized food at the required safe temperatures.
 - b. Maintaining and displaying a current Health Code Operating Permit (exceptions may be made for stores on tribal reservations).
 - c. The Vendor must also notify ITCA immediately and in writing should the current Health Code Operating Permit and any required license or certificate be denied, suspended or revoked. If ITCA becomes aware that the Vendor has failed to maintain sanitation or food safety standards, it may notify the proper regulatory office.
10. Display “No Smoking” signs and enforce no smoking within 20 feet of the building.
11. Display the “We Accept ITCA WIC Checks” decal so that WIC clients will recognize that the Vendor accepts WIC checks. Vendors may only use the WIC Decal to identify their store as an authorized WIC food vendor.
12. Accept WIC checks/FVCs (fruit and vegetable check) only from WIC authorized clients.
13. Offer program clients the same courtesies offered to other customers.
14. Not treat WIC customers differently by offering incentive items that are not offered to non-WIC customers.

15. Accept WIC checks/FVCs only from WIC Clients and within the time period specified on the checks/FVCs.
16. Ensure that cashiers enter the correct date in the “date of use” box when the WIC check/FVCs are used.
17. Charge the WIC Program the current shelf price for each WIC food item. The current shelf price is the price marked on the item, shelf, or nearby sign and includes the sale price of an item.
18. Charge the WIC Program for only those food items actually received by the WIC client.
19. A check that includes infant formula must be fully redeemed. The Vendor cannot accept the check unless the full quantity of formula is purchased.
20. Ensure that cashiers enter the correct total price on the WIC check/FVC before the client signs it.
21. Ensure that cashiers witness the client’s signature on WIC check/FVC and ensure that the signature on the check/FVC matches one of the signatures on the ID folder or Proxy Certification form. In EBT systems, a Personal Identification Number (PIN) may be used in lieu of a signature.
22. Provide only authorized food items in the amounts listed on the check/FVC in exchange for WIC checks/FVCs.
23. Not require identification from WIC clients other than the WIC ID folder or the WIC Proxy Certification form.
24. Not provide unauthorized food items, non-food items, cash or credit (including rain checks) in exchange for WIC checks/FVCs.
25. Not provide substituted food items, refunds or permit exchanges for authorized WIC food items obtained with WIC checks/FVCs, except for exchanges of an identical authorized food item when the original authorized food item is defective, spoiled, or has exceeded its “sell by,” “best if used by” or other date limiting the sale or use of the food item. (An identical authorized food item means the exact brand, type and size of the original authorized food item obtained and returned by the client).
26. Not collect sales tax or other taxes on authorized WIC foods purchased with WIC checks/FVCs or other food instrument except on the amount, which is subject to sales tax, on

- a FVC that exceeds the face value of the check and is paid by the WIC client with their own funds.
27. Not allow the purchase of alcohol, alcoholic beverages, tobacco or tobacco products in exchange for WIC checks/FVCs.
 28. Not provide WIC food items, including infant formula, that are expired, spoiled or beyond their “sell by,” “best if used by” or other date limiting the sale or use of the food item in exchange for WIC checks/FVCs.
 29. Not approach, solicit or leave advertisements or other promotional items for WIC applicants or clients at ITCA or Local Agency WIC Clinics.
 30. Not use the WIC acronym or logo by attaching it to a food item container, using it in the official or business name of the Vendor in whole or in part, including close facsimiles, or for advertising and other promotional purposes.
 31. Shelf talkers and channel strips stating “WIC Approved” or “WIC eligible” will be provided by ITCA for vendors’ use in identifying authorized WIC foods on store shelves. Vendor may not use shelf talkers or channel strips made by the Vendor, food manufacturers or distributors to identify WIC approved items unless approved by ITCA. Misuse of Shelf talkers and channel strips will result in corresponding sanction.
 32. Not allow the return of food purchased with WIC checks/FVCs in exchange for cash, credit, non-food items or unauthorized food items.
 33. Not allow the sale of firearms, ammunition, explosives or controlled substances as defined in 21 U.S.C. §802 in exchange for WIC checks/FVCs.
 34. Maintain competitive prices for WIC authorized food items.
 35. Notify ITCA in writing at least 30 days before the Vendor stops doing business, the ownership changes, or the store location changes.
 36. Return all Vendor identification stamps to ITCA within ten (10) calendar days from the date the Vendor stops doing business, changes ownership, or no longer authorized with the ITCA WIC Program.
 37. Ensure that no conflict of interest exists between the Vendor and ITCA.
 38. Permit announced and unannounced visits by ITCA and/or USDA representatives to review compliance with WIC program requirements.

39. Maintain records as required under this Contract for a minimum of 3 years and 5 months after termination of this Contract.

5. ITCA RESPONSIBILITIES

A. Subject to ITCA's discretion under applicable law, ITCA will:

1. Provide the Vendor with a copy of the ITCA Vendor Manual.
2. Train WIC clients regarding program procedures for the use of WIC checks/FVCs.
3. Provide the Vendor with all required training, including one (1) face-to-face training, during the Contract period as required by 7 C.F.R. § 246.12 and applicable provisions of law.
4. Notify Vendors of changes to federal statutes, regulations, and ITCA policies or procedures governing the WIC Program before the changes are implemented. This includes notifying the Vendor of any changes in the WIC approved foods and changes which affect WIC redemption or program requirements.
5. Monitor the Vendor for compliance with federal and state statutes, regulations, rules, policies and procedures. Monitoring may include, but is not limited to, routine monitoring visits, undercover compliance buys, investigations, and inventory audits.
6. Enforce compliance with this Contract, federal statutes, rules, regulations, and ITCA policies and procedures.
7. Make payments to the Vendor in accordance with the WIC redemption procedures set forth in this Contract and in the Vendor Manual, including subsequent revisions.

6. MULTIPLE LOCATIONS

- A. The location of Vendor's store outlets which have been authorized as "vendors" under this Contract are listed on Appendix A.
- B. Vendor must attach to this Contract as Appendix A the information from the Vendor application for each store outlet that has been authorized as a Vendor pursuant to the ITCA authorization procedures. This must include the outlet location, manager, bookkeeper and the individual responsible for WIC oversight and training. Each store location may be treated as a separate Vendor for compliance with this Contract.
- C. If this Contract is terminated as to any store outlet, the remaining store outlets will be treated as Vendors under this Contract. The Vendor may add a store outlet only if the Vendor applies for authorization and the authorization is approved by ITCA. If the initial list of store outlets as set

forth in Appendix A changes due to termination or addition of a store outlet, Vendor and ITCA agree to prepare a revised Appendix A to be attached to this Contract.

7. CHANGE OF VENDOR NAME, CONTACT INFORMATION, OR HOURS OF OPERATION

- A. Vendor must notify ITCA within 30 days of a change in management or hours of operation.
- B. The Vendor shall notify ITCA in writing at least 30 calendar days before change in store name, the store's mailing address, or the store's telephone/fax number. A change in Vendor location is not a change in mailing address.

8. CHANGE IN OWNERSHIP

- A. The Vendor must provide ITCA thirty (30) days advance written notification of any change in Vendor ownership, store or outlet location, or cessation of operations, including bankruptcy. In such instances, ITCA will terminate this Contract. ITCA has the discretion to whether a change in business structure constitutes a change in ownership.
- B. If notice is not given, Vendor is liable to ITCA for all checks/FVCs paid after the change in ownership. ITCA may pursue all remedies available to collect, including establishing a claim against the Vendor.
- C. This Contract is not transferable between owners and establishments.

9. CHANGE IN LOCATION

- A. Vendors shall notify ITCA in writing at least 30 days before changing locations. This Contract is not transferable between locations. In such instances, ITCA will terminate this Contract, except that ITCA may permit Vendors to move short distances without terminating this agreement. ITCA has the discretion to determine whether a change in location qualifies as a short distance.
- B. Vendors who change the location of their business will not be authorized at their new location unless they have applied ITCA for authorization; have met all selection criteria; and have received a Vendor contract for the new location.

10. RECORD KEEPING REQUIREMENTS

- A. Vendor must maintain inventory records used for federal tax reporting purposes and all records related to sales to WIC customers and compliance with this Contract for 3 years and 5 months after termination or expiration of the Contract.

- B. Vendors are required to develop/keep a record keeping system/documentation of Vendor's annual (SNAP) eligible food sales and be able to provide annual documentation at any time when requested by ITCA.
- C. Upon request of representatives of ITCA, USDA or the Comptroller General of the United States, Vendor must make available all checks/FVCs or other food instruments in Vendor's possession and all program-related records for inspection and audit at any reasonable time and place.
- D. The Vendor shall retain records related to disputes, litigation, and settlements of claims arising out of the performance of this Contract until such time as these matters have been finally resolved or for 3 years and 5 months, whichever is later.
- E. The Vendor shall, at its own expense, provide a legible copy of all such records to ITCA within thirty (30) calendar days of the written request of ITCA or USDA.
- F. The Vendor shall retain and produce for inspection and audit the original of all such records when needed to verify the authenticity of a copy.

11. PURCHASE AND INVENTORY RECORD REQUIREMENT

- A. Vendor purchase records shall reflect the name and address of the supplier, distributor, wholesaler or manufacturer, the date of the purchase, list of the items purchased, size, stock number, quantity and the unit price. Vendor purchase records shall be maintained for 3 years and 5 months. (Handwritten invoices are not acceptable).
- B. Vendors shall only purchase authorized infant formula from sources on ITCA's list of infant formula manufacturers, wholesalers or distributors.
- C. Sales receipts for WIC authorized foods (other than infant formula) purchased at retail establishments (for resale by the Vendor) must include the name and address of the retail establishment, the date of the purchase, a description of the exact item(s) purchased (e.g. 12 oz. box of Total Cereal), the unit price of the items, and the total amount purchased.
 - 1. Receipts that do not completely describe the actual item purchased shall have codes that can be verified by contacting the retailer at which the item(s) were purchased.
 - 2. All receipts from purchases at retail establishments must be machine dated by the establishment. Hand or manually dated retail store receipts are not acceptable.
 - 3. Affidavits, Statements of Fact, other written statements, or oral statements shall not be accepted as evidence of inventory. Only purchase records or retail receipts as described above in this section shall be accepted and constitute evidence of inventory.

12. CONFLICT OF INTEREST

- A. The Vendor shall ensure that no conflict of interest shall exist with ITCA. A conflict of interest relates to the standard of ethical conduct that no officer or employee shall have any interest, financial or otherwise, direct or indirect, or engage in any business transaction or professional activity or incur any obligation of any nature which is in conflict with the discharge of a person's duties.
- B. The existence of an authorized conflict of interest shall be presumed where any person significantly involved in initiating, negotiating, securing, drafting or creating the Contract on the behalf of ITCA, at any time while the Contract or any extension of the Contract is in effect, was or is an employee or agent of any other party to this Contract in any capacity or if such person works as a consultant to any other party of the Contract with respect to the subject matter of this Contract.
- C. If ITCA determines that a conflict of interest exists between the Vendor and ITCA, ITCA shall terminate this Contract.
 - 1. Such cancellation shall occur without any further obligation;
 - 2. Cancellation under this section by ITCA shall be effective when written notice from the executive officer or ITCA is received by all other parties to this Contract unless the notice specifies a later time.

13. PRICING

- A. The Vendor must submit to ITCA the Price Stock Survey through the ITCA authorized Vendor Portal by September 15th and March 15th of each year of this Contract, and when requested by ITCA.
- B. All prices listed on the Price Stock Report shall be comparable to the prices charged by other stores of a similar type and in similar geographic locations. ITCA will determine the reasonableness of the price and will ensure prices are competitive with other stores in the vendor's peer group.
- C. Any change in the prices contained in a price/stock report must be reported to ITCA within ten (10) days of the change. Failure of Vendor to report changes on the Price Stock Report may result in rejection of checks when presented for redemption.

ITCA may make price adjustments to the purchase price on checks or other food instruments submitted by the Vendor for redemption to ensure compliance with prices as set forth in the Price Stock Report or other price limitations applicable to the Vendor. ITCA may also make price adjustments to ensure compliance with maximum allowable reimbursement levels by peer group.

In setting allowable reimbursement levels, ITCA shall consider participant access in a geographic area and may include a factor to reflect fluctuations in wholesale prices. In establishing allowable reimbursement levels for above-50-percent Vendors, ITCA will ensure that reimbursements do not result in higher food costs than if participants transacted WIC Checks/FVCs at Vendors that are not above-50-percent Vendors, or in higher average payments per WIC Check/FVC to above-50-percent Vendors than average payments to comparable Vendors. ITCA may, within its sole discretion, choose to exempt Vendors that supply only exempt infant formula and/or WIC-eligible medical foods and non-profit above-50-percent Vendors from the allowable reimbursement limits, A-50 Vendors will be terminated unless such Vendor qualifies as a Participant Access store as defined in the Vendor Manual.

- D. The State agency may make price adjustments to the purchase price on food instruments submitted by the vendor for redemption to ensure compliance with the allowable reimbursement level applicable to the vendor. A vendor's failure to remain price competitive is cause for termination of the vendor agreement, even if actual payments to the vendor are within the maximum reimbursement amount.
- E. Vendor must clearly mark the price of the WIC approved foods either on the product's container or on the shelf with the product.
- F. Vendor agrees to charge all WIC clients the same or lower prices as other customers of the Vendor. Vendor may not charge for authorized supplemental foods obtained with WIC checks/FVCs or other food instruments. In addition, the Vendor may not seek restitution from these individuals for WIC checks/FVCs or other food instruments not paid or partially paid by the ITCA. ITCA may, however, allow WIC clients to pay the difference when the purchase of authorized fruits and vegetables exceeds the value of the FVC.
- G. If Vendor accepts manufacturers' coupons, then Vendor must accept manufacturers' coupons and provide promotional sales to WIC customers. The coupon amounts must be reflected in the purchase price on the client's receipt. Vendor shall not give cash value or change to clients.

14. PAYMENT TO VENDORS AND CLAIMS

- A. The Vendor shall:
 - 1. Mark all WIC checks/FVCs "For Deposit Only";
 - 2. Stamp all WIC checks/FVCs with its WIC Vendor ID prior to deposit;
 - 3. Endorse all checks/FVCs to show:
 - a. The Vendor's Name;
 - b. Name of the Vendor's bank;
 - c. The Vendor's bank account number; and

4. Deposit in the Vendor's named bank for payment not later than 45 days from the first date to use on the check/FVC.
- A. Checks/FVCs rejected due to a missing Vendor ID stamp shall be stamped and re-deposited by the Vendor for payment, one time only, not later than sixty (60) days from the first date to use (*See Section 4: Vendor Manual*).
- B. The Vendor shall not submit WIC checks/FVCs for payment that:
1. Are known to have been reported as either lost or stolen;
 2. Were redeemed by another authorized Vendor or a store that is not currently authorized as a WIC Vendor;
 3. Include charges for foods not included on the Arizona WIC Programs Food List or for non-food items;
 4. Include charges for WIC foods in excess of the quantities or dollar amount specified on the check/FVC;
 5. Are false claims for reimbursement of WIC checks/FVCs; or
 6. Include charges for WIC foods for more than the current shelf price.
- C. The Vendor agrees that ITCA may authorize its banking contractor to reject checks/FVCs for payment to the Vendor for, but not limited to, any of the following reasons (*See Vendor Manual*):
1. The check/FVC does not have a legible authorized ID stamp number;
 2. The check/FVC was deposited in the bank more than forty-five (45) calendar days from the first date to use for the WIC check/FVC;
 3. The check/FVC was accepted or deposited in the bank before the first date to use;
 4. The check/FVC was accepted after the last date to use;
 5. The check/FVC does not have the signature of the client;
 6. The check/FVC has been altered;
 7. The redeemed dollar value exceeds face value printed on the FVC;
 8. The redeemed dollar value is in excess of the amount set by ITCA as the maximum value

- permitted for the vendor's peer group and check type;
9. The date of use on the check/FVC is before the first date to use printed on the check/FVC or the date of use is after the last date to use printed on the check/FVC; and
 10. The date of use on the check/FVC is missing.
- D. All ITCA WIC checks are assigned a maximum value based on the average redemption amount for each check type per peer group, plus a set buffer percentage for each peer group. The maximum value of a FVC is the face value printed on the check.
 - E. ITCA may make price adjustments to the purchase price on WIC checks/FVCs submitted by the Vendor for redemption to ensure compliance with the price limitations applicable to the Vendor (*See Vendor Manual*).
 - F. Checks that are rejected for exceeding the Maximum Dollar Amount may be paid at the Maximum Amount via Automated Clearing House ("ACH").
 - G. ITCA may delay payment or establish a claim in the amount of the full purchase price of each check/FVC that contained Vendor overcharges or other errors. ITCA 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 ITCA. In collecting a claim, ITCA may offset the claim against current and subsequent amounts to be paid to the Vendor.
 - H. In addition to denying payment or assessing a claim, the ITCA may sanction the Vendor for Vendor overcharges or other errors in conformance with this Contract and the Sanction Schedule found in the Vendor Manual. Sanctions may include termination, disqualification, administrative fines, and civil money penalties in lieu of disqualification, or any combination thereof as may be permitted by law. In conformance with the Vendor Manual, ITCA will notify the Vendor 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 ITCA determines, in its discretion, on a case-by-case basis, that notifying the Vendor would compromise an investigation.
 - I. If requested, ITCA may conduct a secondary review to determine if reimbursement is appropriate for any rejected check/FVC for payment if Vendor submits the original or bank copy of the check/FVC to ITCA within sixty (60) days from the first date of use. The secondary review will be conducted according to the procedures listed in the Vendor Manual.
 - J. ITCA will not conduct secondary reviews on checks/FVCs that are rejected for exceeding the Maximum Dollar Amount.
 - K. ITCA shall not be obligated to reimburse the Vendor for a check/FVC reported to the Vendor as

lost or stolen.

- L. The Vendor may not charge clients for authorized foods obtained with WIC checks/FVCs. In addition, the Vendor may not seek restitution from these individuals for checks/FVCs not paid or partially paid by ITCA.
- M. ITCA shall not be obligated to reimburse the Vendor for any bank fees.
- N. Every payment obligation of ITCA under this contract is conditioned upon the availability of federal funds appropriated or allocated for the payment of such obligation. If funds are not allocated and available for the continuance of this contract, this contract may be terminated by ITCA at the end of the period for which funds are available. No liability shall accrue to ITCA in the event this provision is exercised, and ITCA shall not be obligated or liable for any future payments or for any damages as a result of termination under this paragraph.

15. VENDOR BANKING INFORMATION

- A. The Vendor shall provide ITCA with the name, address, and branch, routing and account number for the bank the Vendor has authorized to accept its checks/FVCs for deposit and that will accept ACH payments.
- B. The Vendor must notify ITCA in writing of any changes of its bank account at least thirty (30) days before the change takes place.

16. RELEASE OF VENDOR RECORDS

- A. ITCA has the right to coordinate Vendor monitoring with the Arizona Department of Health Services and the Navajo Nation WIC Programs. This shall include, but is not limited to, joint investigations, compliance investigations, inventory audits and access to Vendor records.
- B. ITCA may share records and information concerning the Vendor's participation in the WIC Program with other entities responsible for oversight, administration or enforcement of the WIC Program or the Supplemental Nutrition Assistance Program (SNAP). These persons may include personnel from its local agencies and other WIC State and local agencies and persons investigating or prosecuting WIC or SNAP violations under federal, state or local law or with persons directly connected with the administration or enforcement of any federal or state law.

17. MONITORING/AUDIT AND VIOLATIONS

- 4. ITCA will conduct routine monitoring visits of Vendor in accordance with the criteria established in the ITCA Policy and Procedure Manual.
 - 1. ITCA may conduct compliance buys at the Vendor's location at times that are unannounced.

ITCA may use its staff or investigators retained for the sole purpose of conducting covert compliance investigations.

2. Violations that are discovered through monitoring or compliance investigations may be reported by ITCA to other WIC state agencies, SNAP and USDA.
5. During monitoring visits, the Vendor shall provide access, during normal business hours, to all WIC checks/FVCs, shelf prices, shelf price records, purchase records of WIC authorized foods, and food storage areas. Monitoring may include, but is not limited to the following:
 1. Unannounced monitoring visits by ITCA personnel or persons authorized by ITCA; representatives from the USDA or other federal agencies; federal, state or local law enforcement agencies; or authorized personnel from local WIC agencies.
 2. Compliance buys, which are undercover investigations to determine compliance with WIC requirements.
 3. Inventory audits, which are an examination of stock and food invoices or other proofs of purchase to determine whether a vendor has purchased sufficient quantities of WIC authorized foods to provide clients the quantities specified on checks/FVCs redeemed by the vendor during a given period of time.

18. CRIMINAL PENALTIES

ITCA may report Vendor violations, which it determines constitute fraud or abuse, to the appropriate federal, state or local law enforcement agencies for criminal prosecution. All violations which appear to be fraud, willful misappropriation, use of stolen or fraudulently obtained program funds or trafficking will be reported for prosecution. The Vendor may also be subject to a fine of not more than \$25,000, imprisonment of not more than five years, or both, if the value of funds is \$100 or more. If the value is less than \$100, the vendor may be subject to a fine of not more than \$1,000, or imprisonment for not more than one year, or both. ITCA will use all information related to this Agreement to assist law enforcement with a prosecution.

19. VIOLATIONS – CARRYOVER

Violations of the WIC Program that would result in federally mandated sanctions, which occurred during the previous Contract period, may be carried over and used as a basis for termination and/or disqualification or other sanctions (including monetary claims) under any subsequent Contracts in accordance with the most recent Sanction Schedule (*See* Section 5:Vendor Manual).

20. TERMINATION AND EXPIRATION OF THE CONTRACT

- A. ITCA will immediately terminate the Contract if it determines that the Vendor has provided false

or misleading information in connection with its application for authorization.

- B. The Vendor or ITCA may terminate this Contract for cause after providing at least thirty (30) calendar days advance written notice.
- C. ITCA may terminate a Vendor without cause with at least thirty (30) calendar days advance written notice.
- D. ITCA may terminate this Contract and/or disqualify the Vendor for, but not limited to, the reasons stated below:
 - 1. Failure of the Vendor to comply with the conditions and responsibilities set forth in this Contract; the most recent federal regulations at 7 C.F.R., Part 246, the WIC Vendor Manual, ITCA's WIC Policies and Procedures; and subsequent amendments and revisions to these documents or any other applicable requirement of law.
 - 2. Low volume of WIC sales (*See Vendor Manual*).
 - 3. Failure to meet the selection criteria.
 - 4. Termination of the WIC Program or the non-availability of funds.
 - 5. Non-competitive prices.
 - 6. Failure to pay claims.
 - 7. Failure to maintain business integrity.
 - 8. Fraud.
 - 9. A-50 Vendors will be terminated, unless such Vendor is determined to qualify as a participant access Vendor.
- E. The Contract expires and ceases to be effective when the end date specified in the Contract has been reached. Expiration of the Contract is not subject to appeal or administrative review.
- F. Disqualification from the WIC Program may result in disqualification as a retailer in SNAP. Such disqualification may not be subject to administrative or judicial review under SNAP.
- G. ITCA will not accept or process an application from a Vendor during any period of disqualification.

21. APPEALS AND ADMINISTRATIVE REVIEWS

Vendors may appeal certain adverse actions by ITCA according to the administrative review process set forth in the ITCA Policy and Procedure Manual. Adverse actions may include denial of the Vendor's application for authorization, early termination of this Contract for cause, disqualification, or imposition of a fine or a civil money penalty in lieu of disqualification. Administrative review procedures will be available upon request and will be provided along with any notice of adverse action that is subject to review.

The time period for an appeal is set forth in the ITCA Policy and Procedure Manual and shall begin upon receipt of notification of the adverse action.

23. PROHIBITION AGAINST DISCRIMINATION

- A. The Vendor shall comply with the nondiscrimination provisions of USDA regulations 7 C.F.R. §§ 15, 15a, and 15b, as may be amended.
- B. Both the Vendor and ITCA agree to comply with all aspects of anti-discrimination legislation, including all federal legislation and A.R.S. § 41-1463.
 1. The Vendor shall not discriminate based on race, color, disability, age, national origin, or gender in any interactions with WIC clients, representatives of ITCA, or suppliers;
 2. ITCA shall not discriminate based on race, color, disability, age, national origin, or gender in any interactions with Vendors or Vendor applicants;
 3. The Vendor shall comply with all applicable provisions of the Americans with Disabilities Act of 1990, and its amendments.

VENDOR

INTER TRIBAL COUNCIL OF ARIZONA, INC.

BY:

BY:

Signature

Signature

Print Name and Title of Authorized Person

Maria Dadgar, MBA, Executive Director

Name and Title of Authorized Person

Date

Date

Inter Tribal Council of Arizona, Inc.

Store Name

Name

Street Address

2214 N. Central Avenue, Suite 100

Street Address

City State Zip Code

Phoenix, Arizona 85004

City State Zip Code

Telephone Number

(602) 258-4822

Telephone Number

APPENDIX A

VENDORS AUTHORIZED STORE LOCATIONS

Store name:		
SNAP Number:		
Mailing Address:		
City:	State:	Zip Code
Telephone Number:	Fax Number:	
Manager Name:		
Electronic mail address:		

Individual responsible for Vendor compliance at this location:

Name:	Phone Number:
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