Food and Nutrition Administration
U.S. DEPARTMENT OF AGRICULTURE

TO: Supplemental Nutrition Assistance Program (SNAP) Online Purchasing Pilot Retailers

SUBJECT: Blanket Regulatory Waiver for Pilot Retailers

The Food and Nutrition Administration (FNA) of the U.S. Department of Agriculture (USDA) is ready to move forward with your participation in the Online Purchasing Pilot, in accordance with Section 4011 of The Agricultural Act of 2014 (the 2014 Farm Bill), to test the feasibility of allowing retail food stores to accept benefits through online transactions.

This memorandum serves as your firm's waiver of SNAP regulations described below, subject to the conditions also contained herein. This blanket waiver is approved pursuant to SNAP regulations at 7 CFR 272.3(c)(l)(ii), which allows FNA to approve waivers that would result in more effective and efficient administration of SNAP. This waiver will remain in effect from date of the retailer's initial launch or until promulgation of final regulations covering the authorization of online retailers. This waiver will be rescinded should your SNAP authorization as an Internet Retailer be revoked for any reason or if online purchasing for all retailers is discontinued.

The waiver conditions and agreement attached provide a detailed set of conditions that shall be met to maintain the waiver. Your firm must agree, in writing, that you will abide by those requirements and conditions. This is a prerequisite for pilot participation and authorization as an Internet Retailer. FNA reserves the right to make necessary reasonable modifications to the conditions below, subject to signed agreement by both parties.

Failure to comply with the conditions is grounds to rescind the waiver. Prior to rescinding the waiver, FNA will provide written notice to you giving ten business days to take any corrective actions needed to reestablish compliance. If not corrected within that timeframe, FNA may rescind the waiver. Should that happen, FNA will also terminate the retailer's authorization to participate in the pilot.

We look forward to working with you on the Online Purchasing Pilot. If you have any questions, please email the SNAP online mailbox at SM.FN.snaponline@usda.gov. By signing this document, your firm agrees to the conditions contained in the following pages.

Shelly Pierce
Director
Issuance Policy & Innovation Division

Project Manager Name:	
Job Title:	
Firm Name:	

Waivers, Conditions, and Agreement

FNA is granting your firm a waiver for the following regulations, provided that your firm agrees to the conditions described.

1. **PINless Refund** - Section 274.8(a)(2) of the regulations requires verification of a PIN for all transactions except manual vouchers. Because the customer will not be available to enter a PIN when a refund must be processed, it is necessary for Internet Retailers to perform refunds without PINs.

   Conditions

   - All PINless refund transactions must go through a secure PIN-entry Third Party Processor (TPP).
   - The website must maintain a secure, controlled method for a limited number of employees authorized to enter or authorize PINless refunds
   - The website may never deduct the cost of shipping from the refund amount. The full value of the food item returned must be credited back to the customer's SNAP account and any shipping charges must be paid through an alternative payment method
   - Refunds for returned items or other customer-initiated events must be processed within two company business days
   - Electronic notice must be provided, or SNAP customer's online history must be updated, within 24 hours of refund completion
   - If FNA receives multiple complaints about refunds taking more than two company business days, the website may be put on notice that they must provide periodic reports about refund timeliness for SNAP customers
   - If problems with timely refunds continue the waiver will be rescinded and internet retailer participation will be terminated

2. **PIN-Entry Method** - Section 274.8(b) of the regulations requires that PINs be entered only through ANSI-compliant POS devices. Sections 274.8(b)(3)(ii)(C) and 274.8(b)(6)(iii) provide that PINs must be encrypted, at a minimum, from the point of entry.

   Conditions

   - The website must contract for secure PIN-entry services and carry out their responsibilities for that contract
   - The waiver will require that all PINned transactions go through a secure PIN-entry Third Party Processor (TPP)
   - The website and mobile app must conform to all PIN-entry requirements and standards
   - The website mobile app and/or intermediary service provider(s) responsible for storage of payment card numbers must continue to maintain PCI certification. The site must continue to maintain a secure system that ensures the security and privacy of EBT customer data

3. **Printed Receipt** - Section 274.8(b)(6)(i) of the regulations prohibits the onscreen display of SNAP account balance information. Section 274.8(b)(7) requires that households must be provided printed receipts at the time of transaction, with date, merchant's name and location, truncated card number, transaction type, transaction amount and remaining balance for the SNAP account. The household's name shall not appear on the receipt and no signature may be required except for manual vouchers.

   Internet sales do not generate printed receipts. However, after the authorization is complete, sites are allowed to provide the following:

   a. A confirmation invoice screen showing company name, order number, transaction date, delivery/pickup/shipping address, actual or estimated delivery date/time, data on individual items purchased, subtotal, tax, shipping/delivery fee amount, final total, payment method and last 4 digits of the card number used.
   b. A subsequent email to the customer containing all of the information above.
   c. A printed invoice or electronic notification, included with the order or maintained in online history, which details the actual items, unit pricing, subtotal, tax, shipping/delivery fee amount, and final total.

   Conditions

   - For all denials, the website must provide an immediate screen display describing the reason the transaction was denied (e.g., invalid card number, invalid PIN, insufficient funds, etc.), and the customer shall be offered the opportunity to perform the transaction again, select a different payment method, or opt out of the sale
   - In instances where the denial is for insufficient funds, the website must also display the remaining balances for SNAP and cash. The site may opt to:
     a. Use the remaining balance data that comes back in the denial message to pre-fill the amount entered for the new transaction attempt, as long as the customer is allowed to enter a lower value
     b. Require the customer to delete individual SNAP eligible items or pay for these items with another tender, until a subtotal less than or equal to the remaining SNAP balance is achieved
   - For all approved purchases, the site must provide both an immediate confirmation screen, and within 24 hours a subsequent email or text acknowledgement. Both must include, at a minimum, transaction date and time, merchant name, merchant phone number or other appropriate contact information, delivery/pickup/shipping address, actual or estimated delivery/pickup/shipping date (and time if known), transaction Program (SNAP or cash EBT), total amount debited from SNAP and/or cash EBT account for the purchase, remaining balances for SNAP and cash EBT, and the truncated PAN. The site may also include the customer and/or delivery/shipping address names.
   - In lieu of, or in addition to, a subsequent email or text message for purchases, the retailer may maintain a secure online customer order history that the customer can easily retrieve.

- All refunds require issuance of an email or text message to the customer within 24 hours, containing, at a minimum, transaction date and time, merchant name, merchant phone number or other appropriate contact information, transaction Program (SNAP or cash EBT), total amount credited to the SNAP and/or cash account for the refund, remaining balances for SNAP and cash, and the truncated PAN.
- In lieu of an electronic receipt for refunds provided at the completion of order fulfillment (e.g., for weight overestimates or out of stock items), the retailer may provide a paper refund receipt containing the above information with the order. This may be combined with the final itemized order listing or on a separate paper receipt.
- If site policy calls for return shipping, or original shipping costs if they were waived, to be debited from a refund amount, it may not be debited from SNAP benefits. The full value of any returned item purchased with SNAP must be refunded back to the customer's SNAP account. Sites must cover return shipment costs themselves or ask the customer to pay those costs with an alternate form of tender. On the other hand, purchases made from the cash EBT account may have shipping or other processing fees deducted, if such fees are assessed to customers using other payment methods.
- The merchant address fields included in the transaction message submitted to the secure PIN-entry Third Party Processor must be coded in the same manner as credit/commercial debit transactions, so that this information can be appropriately displayed by the EBT system for customer use. FNA also requires a ZIP code as part of the merchant address.

4. **Product Display -** Section 278.1(b)(1)(i) of the regulations describes the depth of stock requirements that retailers must meet to be eligible to accept SNAP benefits. FNA will not waive these basic requirements for Internet Retailers. However, there is one clause at 278.1(b)(1)(i) (A) that requires the food products which substantiate eligibility to be offered for sale and normally displayed in a public area on a continuous basis. The intent is that ample numbers of physical, qualifying items be stocked on the store's shelves at all times. Display of the actual physical items is not possible in the virtual environment of online commerce.
   Conditions

   - The website must still meet the basic eligibility requirements for a SNAP-authorized brick and mortar retailer
   - The food products that substantiate eligibility must be displayed on the website in sufficient numbers and available stock keeping levels to meet the ample quantity, variety and perishable requirements on a continuous basis
   - The retailer's distribution facility (e.g., warehouse or brick and mortar store where the order is filled) must also meet the ample quantity, variety, and perishable requirements on a continuous basis

5. **Prepayment** - Section 278.2(e) of the regulations currently stipulates that food retailers may not accept SNAP benefits before delivering the food. The only exception is for nonprofit food buying cooperatives, which may accept benefits up to 14 days prior to food delivery.

However, the 2014 Farm Bill allows Internet Retailers to accept SNAP benefits prior to the delivery of food and gives FNA the authority to establish a reasonable timeframe for advance payment. After consulting with industry experts, FNA has determined that for this pilot project a reasonable timeframe is seven calendar days. Therefore, all online orders must be in the customer's hands within that timeframe, unless the customer specifically selects a later delivery/pickup date.

Conditions

- The retailer must prohibit the use of multiple delivery addresses for a single EBT transaction
- Prior to submitting the transaction for authorization, the site must clearly explain the delivery process and timeframe (which may not exceed 7 days) to the customer. If the merchant allows EBT customers to designate the date and time for local delivery/ pickup, those customers will be allowed to select a date, for their own convenience, that is more than seven days after payment
- Websites that do not allow the customer to select their own delivery/pickup time must provide the estimated receipt date, and allow the client to opt out before the sale is finalized
- The retailer must prohibit the use of EBT cards for standing/subscription orders
- If the retailer allows split orders, all portions of the order must be received by the customer within the mandatory timeframe
- If by the fifth day after the transaction it is clear that the seven-day limit will be exceeded, the site must notify the client by email or phone of the expected new receipt date and offer the opportunity for an immediate, full refund instead
- Refunds that result from overestimated weighed products, substitutions, or out of stock items must be made to the client immediately after fulfillment of the order
- The site must maintain statistics that document how long it normally takes between the time that the sale is finalized and the time that the customer receives the food order
- If FNA receives multiple complaints about late deliveries the website may be put on notice that they must provide periodic reports about delivery timeliness for SNAP customers
- If problems with timely delivery continue the waiver will be rescinded and internet retailer participation terminated

6. **Card Must Be Present** - Policy Memo BRD/EBT 2001-1 requires that the EBT card must always be present when a customer performs a transaction, be it swiped, key-entered, or by manual voucher. It is not possible for the website to determine if customers have the card in hand at the point in time that they enter the card number. Therefore, FNA waives the "card must be present" requirement.

Conditions

- Transaction messages must always be coded as "card not present" for Internet transactions
- The participant must notify FNA whenever significant changes are made to the site's policies and practices regarding refunds, customer complaints, privacy and security, and provide a copy of or link to the revised information

7. **Minimum Requirement -** Section 7 CFR 274.8(b)(9) of regulations states: "Minimum transaction set. At a minimum, the State agency shall ensure that the EBT system, including third party processors and retailers driving their own terminals, is capable of providing for authorizing or rejecting purchases, refunds or customer credits, voids or cancellations, key entered transactions, balance inquiries and settlement or close-out transactions. The system must be capable of completing this transaction set across State borders nationwide in accordance with standards specified in paragraph (h)(10) of this section".
FNA waives the Minimum Requirement in the following condition for the Online Purchasing Pilot:
   - The requirement for retailers to provide balance inquiries in the interest of protecting SNAP clients from fraud.

8. **Equal Treatment** – Section 274.7(f) and 278.2(b) of the regulations require that SNAP clients receive treatment equal to that received by other customers at all retail stores authorized to participate in SNAP with the exception that sales tax may not be charged on eligible foods purchased with SNAP benefits. Retailers may not treat SNAP recipients differently, positively or negatively, in any way.
FNA waives the equal treatment requirement in the following situations for the Online Purchasing Pilot:
   - Offer to waive or discount delivery and in-store pickup fees for SNAP EBT customers using the online system.
   - Offer to waive or discount website or retailer membership fee for EBT customers shopping online.

If your firm intends to do anything not described above, please contact us at the SNAP Online Purchasing mailbox: sm.fn.snaponline@usda.gov for further discussion.