

**DRAFT**  
**Friday, Eldredge & Clark, LLP**  
**6/21/21**

---

CITY OF JONESBORO, ARKANSAS

to

THE BANK OF NEW YORK MELLON TRUST COMPANY,  
NATIONAL ASSOCIATION  
Pittsburgh, Pennsylvania  
as Trustee

\_\_\_\_\_  
**TRUST INDENTURE**  
\_\_\_\_\_

Dated as of \_\_\_\_\_ 1, 2021

---

\$100,000,000 City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Nestlé Prepared Foods Company Project), Series 2021

# TRUST INDENTURE

## TABLE OF CONTENTS

(This Table of Contents is not a part of the Trust Indenture and is only for convenience of reference.)

Parties	1
Recitals	1
Granting Clauses	1

### ARTICLE I DEFINITIONS

Section 101	Definitions	4
Section 102	Use of Words	6

### ARTICLE II THE BONDS

Section 201	Authorized Amount of Bonds	7
Section 202	Details of Bonds	7
Section 203	Form	8
Section 204	Payment	8
Section 205	Execution	8
Section 206	Limited Obligation	9
Section 207	Authentication	9
Section 208	Delivery of the Bonds	9
Section 209	Mutilated, Destroyed or Lost Bonds	9
Section 210	Registration and Transfer of Bonds	10
Section 211	Cancellation	11
Section 212	Temporary Bonds	11
Section 213	Conversion of Bonds Upon Completion Date	11
Section 214	Home Office Payment Agreement	11

### ARTICLE III REDEMPTION OF BONDS BEFORE MATURITY

Section 301	Redemption of Bonds	12
Section 302	Notice	12
Section 303	Redemption Payments	12
Section 304	Cancellation	12
Section 305	Partial Redemption of Bonds	12

ARTICLE IV  
GENERAL COVENANTS

Section 401	Payment of Principal	14
Section 402	Performance of Covenants	14
Section 403	Instruments of Further Assurance	14
Section 404	Recordation and Other Instruments	14
Section 405	Inspection of Project Books	15
Section 406	Rights Under Lease Agreement	15

ARTICLE V  
REVENUES AND FUNDS

Section 501	Creation of Bond Fund	16
Section 502	Payments Into Bond Fund	16
Section 503	Use of Moneys in Bond Fund	16
Section 504	Withdrawals from Bond Fund	16
Section 505	Non-Presentment of Bonds	16
Section 506	Fees, Expenses and Charges of Issuer and Trustee	17
Section 507	Moneys to be Held in Trust	17
Section 508	Refund to Company of Excess Payments	17
Section 509	Termination of Rights of Bondholders	17

ARTICLE VI  
APPLICATION OF PROCEEDS OF BONDS

Section 601	Deposits Into the Construction Fund	18
Section 602	Disbursements From Construction Fund	18
Section 603	Balance in Construction Fund	18

ARTICLE VII  
INVESTMENTS

Section 701	Investment of Moneys	19
Section 702	Trustee Not Liable for Losses	20

ARTICLE VII  
RIGHTS AND OBLIGATIONS UNDER THE  
LEASE AGREEMENT

Section 801	Rights of Company Under Lease Agreement	21
Section 802	Rights of Issuer under Lease Agreement	21
Section 803	Trustee's Obligations Under Lease Agreement	21

ARTICLE IX  
DISCHARGE OF LIEN

Section 901	Discharge of Lien	22
-------------	-------------------	----

ARTICLE X  
DEFAULT PROVISIONS AND REMEDIES  
OF TRUSTEE AND BONDHOLDERS

Section 1001	Events of Default	23
Section 1002	Acceleration	23
Section 1003	Other Remedies; Rights of Bondholders	24
Section 1004	Rights of Bondholders to Direct Proceedings	24
Section 1005	Appointment of Receiver	24
Section 1006	Waiver	25
Section 1007	Application of Moneys	25
Section 1008	Remedies Vested in Trustee	26
Section 1009	Rights and Remedies of Bondholders	26
Section 1010	Termination of Proceedings	27
Section 1011	Waivers of Events of Default	27

ARTICLE XI  
TRUSTEE

Section 1101	Acceptance of Trusts	28
Section 1102	Fees, Charges and Expenses of Trustee and Paying Agents; Trustee's Prior Lien	30
Section 1103	Notice to Bondholders of Default	30
Section 1104	Intervention by Trustee	31
Section 1105	Merger or Consolidation of Trustee	31
Section 1106	Resignation by Trustee	31
Section 1107	Removal of Trustee	31
Section 1108	Appointment of Successor Trustee	31
Section 1109	Concerning Any Successor Trustee	32
Section 1110	Reliance Upon Instruments	32
Section 1111	Appointment of Co-Trustee	32

ARTICLE XII  
SUPPLEMENTAL INDENTURES

Section 1201	Supplemental Indentures Not Requiring Consent of Bondholders	34
Section 1202	Supplemental Indentures Requiring Consent of Bondholder	34
Section 1203	Consent of Company	35

ARTICLE XIII  
AMENDMENT TO LEASE AGREEMENT OR GUARANTY AGREEMENT

Section 1301	Amendments Not Requiring Consent of Bondholders	36
Section 1302	Amendments Requiring Consent of Bondholders	36
Section 1303	Discretion of Trustee in Entering into Supplements and Amendments	36

ARTICLE XIV  
MISCELLANEOUS

Section 1401	Consents of Bondholders	37
Section 1402	Notices	37
Section 1403	Limitation of Rights	38
Section 1404	Severability	38
Section 1405	Applicable Provisions of Law	38
Section 1406	Counterparts	38
Section 1407	Successors and Assigns	39
Section 1408	Captions	39
Section 1409	Bonds Owned by the Issuer or the Company	39
Section 1410	Instructions to Trustee by Electronic Means	39
	Signatures and Seals	41
	Acknowledgments	42
	Exhibit A - Form of Initial Bond	44
	Exhibit B - Form of Bond After Completion Date	50
	Exhibit C - Form of Requisition	55

## TRUST INDENTURE

This TRUST INDENTURE, dated as of \_\_\_\_\_ 1, 2021, by and between the CITY OF JONESBORO, ARKANSAS, a municipality organized and existing under the laws of the State of Arkansas (the "Issuer"), and THE BANK OF NEW YORK MELLON TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association organized under and existing by virtue of the laws of the United States of America, with a corporate trust office at 500 Ross Street, 12th Floor, Pittsburgh, Pennsylvania 15262 (the "Trustee").

### WITNESSETH:

WHEREAS, the Issuer is authorized and empowered under the laws of the State of Arkansas, including particularly Title 14, Chapter 164, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Act"), to issue revenue bonds and expend the proceeds thereof to finance the cost of acquiring, constructing and equipping facilities for securing or developing industry; and

WHEREAS, pursuant to and in accordance with the provisions of the Act, the Issuer proposes to issue its revenue bonds under the Act in the aggregate principal amount of not to exceed \$100,000,000 (identified in Article I hereof and referred to herein as the "Bonds"), for the purpose of financing the cost of acquiring, constructing and equipping certain industrial facilities located within the boundaries of the Issuer (described in Article I hereof and collectively referred to herein as the "Project"), and to lease the Project to Nestlé Prepared Foods Company, a Pennsylvania corporation (the "Company"), such lease to be upon the terms and conditions set forth in a Lease Agreement dated as of \_\_\_\_\_ 1, 2021 (the "Lease Agreement"), by and between the Issuer and the Company; and

WHEREAS, all things necessary to make the Bonds, when authenticated by the Trustee and issued as in this Trust Indenture provided, the valid, binding and legal obligations of the Issuer according to the import thereof, and to constitute this Trust Indenture a valid assignment and pledge of revenues to the payment of the principal of and interest on the Bonds, in accordance with the provisions hereof, have or will have been done and performed, and the creation, execution and delivery of this Trust Indenture and the creation, execution and issuance of the Bonds, subject to the terms hereof, have in all respects been duly authorized; and

WHEREAS, the Trustee has agreed to accept the trusts herein created upon the terms set forth herein;

NOW, THEREFORE, KNOW ALL MEN BY THESE PRESENTS, THIS TRUST INDENTURE WITNESSETH:

### GRANTING CLAUSES

That the Issuer in consideration of the premises and the acceptance by the Trustee of the trusts hereby created and of the purchase and acceptance of the Bonds by the holders and owners thereof, and the sum of One Dollar (\$1.00), lawful money of the United States of America, to it duly

paid by the Trustee, at or before the execution and delivery of these presents, and for other good and valuable considerations, the receipt of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Bonds according to their tenor and effect and to secure the performance and observance by the Issuer of all the covenants expressed or implied herein and in the Bonds, subject to all of the provisions hereof, does hereby grant, bargain, sell, convey, mortgage, assign and pledge unto the Trustee, and unto its successor or successors in trust, and to them and their assigns forever, for the securing of the performance of the obligations of the Issuer hereinafter set forth:

1.

All the rights and interest of the Issuer in and to the Lease Agreement (except for the rights of the Issuer under Sections 5.3(c), 6.2, 6.5 and 8.5 thereof and any rights of the Issuer to receive notices, certificates, or other communications thereunder); and all Revenues (as hereinafter defined) and the proceeds of all thereof.

2.

All the rights and interest of the Issuer in and to the Construction Fund and the Bond Fund (as hereinafter defined), and all moneys and investments therein, but subject to the provisions of this Trust Indenture pertaining thereto.

3.

All moneys, securities and obligations from time to time held by the Trustee under the terms of this Trust Indenture (except for moneys, securities or obligations deposited with or paid to the Trustee for redemption or payment of Bonds which are deemed to have been paid in accordance with Article IX hereof and funds held pursuant to Section 505 hereof, which shall be held by the Trustee in accordance with the provisions of said Article IX or Section 505, as the case may be), and any and all real and personal property of every name and nature from time to time hereafter by delivery or by writing of any kind conveyed, mortgaged, pledged, assigned or transferred, as and for additional security hereunder by the Issuer or by anyone in its behalf or with its written consent to the Trustee which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD all the same with all privileges and appurtenances hereby conveyed and assigned, or agreed or intended so to be, to the Trustee and its successors in said trusts and to them and their assigns forever;

IN TRUST NEVERTHELESS, upon the terms and trusts herein set forth for the equal and proportionate benefit, security and protection of all owners of the said Bonds issued under and secured by this Trust Indenture without privilege, priority or distinction of any of said Bonds over any of the other of said Bonds; provided, however, that if the Issuer, its successors or assigns, shall

well and truly pay, or cause to be paid, the principal of the Bonds and the interest due thereon, at the times and in the manner provided in the Bonds according to the true intent and meaning thereof, and shall make the payments into the Bond Fund as required hereunder or shall provide, as permitted hereby, for the payment thereof by depositing or causing to be deposited with the Trustee the amount specified herein, and shall well and truly keep, perform and observe all the covenants and conditions pursuant to the terms of this Trust Indenture to be kept, performed and observed by it, and shall pay to the Trustee all sums of money due or to become due to it in accordance with the terms and provisions hereof, then upon such final payments this Indenture and the rights hereby granted shall cease, determine and be void; otherwise, this Trust Indenture to be and remain in full force and effect.

THIS TRUST INDENTURE FURTHER WITNESSETH that, and it is expressly declared, all Bonds issued and secured hereunder are to be issued, authenticated and delivered and all said revenues and income hereby pledged are to be dealt with and disposed of under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Issuer has agreed and covenanted, and does hereby agree and covenant, with the Trustee and with the respective owners, from time to time of the said Bonds, as follows:

## ARTICLE I

### DEFINITIONS

Section 101. Definitions. In addition to the words and terms elsewhere defined in this Indenture, the following words and terms as used in this Indenture shall have the following meanings:

"Act" -- Title 14, Chapter 164, Subchapter 2 of the Arkansas Code of 1987 Annotated, as enacted and amended from time to time.

"Advance" -- The advancement from time to time of the proceeds of the Bonds to the Company pursuant to requisitions submitted in accordance with Section 602 hereof.

"Bonds" -- The City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Nestlé Prepared Foods Company Project), Series 2021, in the aggregate principal amount of not to exceed \$100,000,000, issued under and secured by the Indenture.

"Bond Counsel" -- Any firm of nationally recognized municipal bond counsel selected by the Company and acceptable to the Issuer and the Trustee.

"Bond Fund" -- The fund by that name created and established in Section 501 of this Indenture.

"Business Day" -- A day of the year on which banks located in the city in which the principal corporate trust office of the Trustee is located are not required or authorized to remain closed and on which The New York Stock Exchange is not closed.

"City Clerk" -- The person holding the office and performing the duties of City Clerk of the Issuer.

"Code" -- The Internal Revenue Code of 1986, as heretofore or hereafter amended.

"Company" -- Nestlé Prepared Foods Company, a corporation organized and existing under the laws of the State of Pennsylvania, and its permitted successors and assigns hereunder.

"Company Representative" -- The person or persons at the time designated to act on behalf of the Company as evidenced by written certificate furnished to the Issuer and the Trustee containing the specimen signature of such person and signed on behalf of the Company by its President, any Vice President, or Treasurer. Such certificate may designate an alternate or alternates.

"Completion Date" -- The date of completion of the acquisition, construction and equipment of the Project (or any phase of the Project financed with the proceeds of a series of Bonds), as that

date shall be determined by the Company and certified as provided in Section 3.4 of the Lease Agreement.

"Construction Fund" -- The fund by that name created and established in Section 601 of this Indenture.

"Event of Default" -- Any event of default specified in Section 1001 hereof.

"Government Securities" -- Direct or fully guaranteed obligations of the United States of America (including any such securities issued or held in book-entry form on the books of the Department of Treasury of the United States of America).

"Guaranty Agreement" -- The Guaranty Agreement dated as of \_\_\_\_\_ 1, 2021, by and between the Company and the Trustee, pursuant to which the Company guarantees the payment of the principal of and interest on the Bonds, and any amendments and supplements thereto.

"Holder" or "bondholder" or "owner of the Bonds" -- The registered owner of any Bond.

"Indenture" -- This Trust Indenture and any amendments and supplements hereto.

"Interest Payment Date" -- Each \_\_\_\_\_ 1 and \_\_\_\_\_ 1 commencing \_\_\_\_\_ 1, 20\_\_\_, or, if such day shall not be a Business Day, the next succeeding Business Day.

"Issuer" -- City of Jonesboro, Arkansas, a municipality organized and existing under the laws of the State of Arkansas, and its successors and assigns.

"Lease Agreement" -- The Lease Agreement dated as of \_\_\_\_\_ 1, 2021, by and between the Issuer and the Company, and any amendments and supplements thereto.

"Mayor" -- The person holding the office and performing the duties of the Mayor of the Issuer.

"Outstanding" -- When used with reference to the Bonds, as of any particular date, the aggregate of all Bonds authenticated and delivered under this Indenture except:

- (a) Bonds canceled at or prior to such date or delivered to or acquired by the Trustee at or prior to such date for cancellation;
- (b) Bonds deemed to be paid in accordance with Article IX of this Indenture; and
- (c) Bonds in lieu of or in exchange or substitution for which other Bonds shall have been authenticated and delivered pursuant to this Indenture.

"Person" -- Includes natural persons, firms, associations, corporations and public bodies.

"Project" -- The buildings, structures and other improvements, and those items of fixtures, machinery, equipment and other tangible personal property acquired, constructed and equipped, in whole or in part, with the proceeds of the Bonds, more particularly identified in the Lease Agreement.

"Project Costs" -- The sum total of all reasonable or necessary costs actually incurred in constructing the Project and any such costs incidental thereto.

"Purchaser" -- Nestlé Capital Corporation, a Delaware corporation, and its successors and assigns. The Purchaser is the original purchaser of the Bonds.

"Record Date" -- The fifteenth day of the calendar month next preceding an Interest Payment Date, whether or not a Business Day.

"Revenues" -- All amounts payable pursuant to Section 5.3(a) of the Lease Agreement.

"Trustee" -- The bank or trust company designated as Trustee in this Indenture, and its successor or successors as such Trustee under the provisions of the Indenture or by operation of law. The original Trustee is The Bank of New York Mellon Trust Company, National Association, Pittsburgh, Pennsylvania.

"Trust Estate" -- The property conveyed to the Trustee pursuant to the Granting Clauses hereof.

Section 102. Use of Words. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words "Bond", "owner", "holder" and "person" shall include the plural, as well as the singular, number.

## ARTICLE II

### THE BONDS

Section 201. Authorized Amount of Bonds. No Bonds may be issued under the provisions of this Indenture except in accordance with this Article. The total principal amount of Bonds that may be issued is hereby expressly limited to \$100,000,000, except as provided in Sections 209 and 212 hereof.

Section 202. Details of Bonds. (a) The Bonds (i) shall be designated "City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bonds (Nestlé Prepared Foods Company Project), Series 2021," (ii) shall be in the aggregate principal amount of not to exceed \$100,000,000, (iii) shall be dated the date of original issuance and delivery thereof to the Purchaser; (iv) shall bear interest at the rate of one and 97/100 percent (1.97%) per annum until paid, payable semiannually on each Interest Payment Date, and (v) shall mature, unless sooner redeemed in the manner in this Indenture set forth, on \_\_\_\_\_ 1, 2051. The Bonds shall be issued as registered bonds without coupons as is hereinafter provided.

The Bonds shall be issued in the denomination of \$100,000 each, or any integral multiple of \$5,000 in excess of \$100,000, numbered consecutively from R-1 upwards in order of issuance according to the records of the Trustee.

The Bonds shall be initially issued in the form of one fully registered bond in the principal amount of \$100,000,000 and may not be submitted in exchange for more than one fully registered bond until the Completion Date, at which time the Series 2021 Bond initially issued may, but shall not be required to, be submitted to the Trustee pursuant to the provisions of Section 210 hereof in exchange for more than one fully registered bond. The proceeds of the Bonds shall be advanced from time to time upon the submission of requisitions by the Company to the Trustee pursuant to the provisions of Section 602 hereof and Section 4.2 of the Lease Agreement. Upon receipt of each requisition by the Trustee, the Trustee shall telephonically notify the Purchaser of the principal amount of the Bonds which the Purchaser must purchase, which shall be the amount set forth in such requisition. Promptly upon receipt of such notice, the Purchaser shall pay to the Trustee the principal amount requisitioned by the Company, and the Trustee shall make a notation of such principal amount purchased on the Record of Advances and Principal Payments attached to the Bond. The amount shown on the Record of Advances and Principal Payments attached to the Bond shall be deemed to be conclusive evidence of the principal amount of the Bonds purchased by the Purchaser, absent manifest error. The principal amount of the Bonds so purchased shall be submitted by the Purchaser to the Trustee, and such amount shall be deposited by the Trustee into the Construction Fund. Any portion of the Bonds not sold to the Purchaser and any portion of the corresponding proceeds not delivered to the Company by the Completion Date shall not be issued or delivered thereafter. Notwithstanding anything herein to the contrary, until the Completion Date, upon the request of the Purchaser, the Trustee may maintain custody of the Bond as agent of the Purchaser.

The Series 2021 Bond initially issued shall bear interest from its date; provided, that the date of each Advance under such Bond shall be the interest commencement date from which the principal amount of such Advance bears interest. Bonds issued on the Completion Date and prior to the next Interest Payment Date shall bear interest from the Completion Date, and Bonds issued thereafter shall bear interest from the Interest Payment Date next preceding the date of authentication and delivery thereof by the Trustee, unless such date of authentication and delivery shall be an Interest Payment Date, in which case they shall bear interest from such date of authentication and delivery, or unless such date of authentication and delivery shall be during the period from the Record Date to the next Interest Payment Date, in which case they shall bear interest from such Interest Payment Date; provided, however, that if, as shown by the records of the Trustee, interest on any Bonds surrendered for transfer or exchange shall be in default, the Bonds issued in exchange for Bonds surrendered for transfer or exchange shall bear interest from the date to which interest has been paid in full on the Bonds surrendered. Interest shall be computed on the basis of a year of three hundred sixty (360) days consisting of twelve 30-day months.

Section 203. Form. The Series 2021 Bond originally issued and delivered shall be substantially in the form set forth in Exhibit A attached hereto, with appropriate variations, omissions and insertions as permitted or required by this Indenture. The Bonds issued and delivered on and after the Completion Date shall be substantially in the form set forth in Exhibit B attached hereto, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture.

Section 204. Payment. The principal of the Bonds shall be paid upon the presentation and surrender of said Bonds at the principal corporate trust office of the Trustee. The interest on the Bonds shall be payable by check or draft drawn upon the Trustee and mailed to or, at the option of the owners of Bonds in the aggregate principal amount of not less than \$1,000,000, transmitted by wire transfer to the registered owners as of the close of business on the Record Date next preceding the Interest Payment Date at their respective addresses as such appear as of the close of business on such Record Date on the bond registration books kept by the Trustee, or in connection with any wire transfer to the bank account number previously filed by the owner with the Trustee for such purpose, except that if and to the extent that there shall be a default in the payment of the interest due on such Interest Payment Date, such defaulted interest shall be paid to the owners in whose name any such Bonds (or any Bond or Bonds issued upon transfer or exchange thereof) are registered at the close of business on the fifth Business Day next preceding the date of payment of such defaulted interest. All payments shall be made in lawful money of the United States of America.

Section 205. Execution. The Bonds shall be executed on behalf of the Issuer by the manual or facsimile signatures of the Mayor and the City Clerk and shall have impressed or imprinted thereon the corporate seal of the Issuer. A facsimile signature shall have the same force and effect as if personally signed. In case any officer whose signature or facsimile of whose signature shall appear on the Bonds shall cease to be such officer before the delivery of such Bonds, such signature or such facsimile shall nevertheless be valid and sufficient for all purposes, the same as if he had remained in office until delivery.

Section 206. Limited Obligation. The Bonds, together with interest thereon, shall be payable from the Bond Fund, as hereinafter set forth, and shall be a valid claim of the holders thereof only against the Bond Fund and the Revenues pledged to the Bond Fund, which Revenues are hereby pledged and mortgaged for the equal and ratable payment of the Bonds (principal and interest) and shall be used for no other purpose than to pay the principal of and interest on the Bonds, and the Trustee's fees, except as may be otherwise expressly authorized in this Indenture. The Bonds and interest thereon shall not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory provision and shall never constitute an obligation or charge against the general credit or taxing powers of the Issuer.

Section 207. Authentication. Only such Bonds as shall have endorsed thereon a certificate of authentication substantially in the form set forth in Exhibits A and B attached hereto duly executed by the Trustee shall be entitled to any right or benefit under this Indenture. No Bond shall be valid and obligatory for any purpose unless and until such certificate of authentication shall have been duly executed by the Trustee, and such certificate of the Trustee upon any such Bond shall be conclusive evidence that such Bond has been authenticated and delivered under this Indenture. The Trustee's certificate of authentication on any Bond shall be deemed to have been executed if signed by an authorized signatory of the Trustee, but it shall not be necessary that the same signatory sign the certificate of authentication on all of the Bonds issued hereunder.

Section 208. Delivery of the Bonds. The Issuer shall execute and deliver to the Trustee and the Trustee shall authenticate the Bonds and deliver said Bonds to the Purchaser or the representative thereof. Prior to the delivery or original issuance by the Trustee of any authenticated Bonds there shall be or have been delivered to the Trustee:

- (a) Original executed counterparts of this Indenture, the Lease Agreement, and the Guaranty Agreement.
- (b) A written order to the Trustee by the Issuer to authenticate and deliver the Bonds to the Purchaser upon payment to the Trustee, but for the account of the Issuer, of a sum specified in such order plus or less accrued interest thereon, if any, as the case may be, to the date of delivery.
- (c) A copy, duly certified by the City Clerk, of the proceedings of the City Council of the Issuer authorizing the issuance of the Bonds.
- (d) An opinion of Bond Counsel to the effect that the Bonds have been validly issued and are legally binding and enforceable under this Indenture.

Section 209. Mutilated, Destroyed or Lost Bonds. In case any Bond issued hereunder shall become mutilated or be destroyed or lost, the Issuer shall, if not then prohibited by law, cause to be executed and the Trustee may authenticate and deliver a new Bond of like date, number, maturity and tenor in exchange and substitution for and upon cancellation of such mutilated Bond, or in lieu of and in substitution for such Bond destroyed or lost, upon the holder's paying the reasonable

expenses and charges of the Issuer and the Trustee in connection therewith, and, in the case of a Bond destroyed or lost, his filing with the Issuer and the Trustee evidence satisfactory to it that such Bonds were destroyed or lost, and of his ownership thereof, and furnishing the Issuer and the Trustee with indemnity satisfactory to them. The Trustee is hereby authorized to authenticate any such new Bond. In the event any such Bonds shall have matured or shall have been called for redemption prior to maturity, instead of issuing a new Bond, the Issuer may pay the same without the surrender thereof.

Section 210. Registration and Transfer of Bonds. The Issuer hereby constitutes and appoints the Trustee as Registrar of the Issuer, and as Registrar the Trustee shall keep books for the registration and for the transfer of the Bonds as provided in this Indenture at the principal corporate trust office of the Trustee. The person in whose name any Bond shall be registered shall be deemed and regarded as the absolute owner thereof for all purposes and payment of or on account of the principal of and interest on any such Bond shall be made only to or upon the order of the registered owner thereof, or his legal representative, and neither the Issuer, the Trustee, nor the Bond Registrar shall be affected by any notice to the contrary but such registration may be changed as herein provided. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Bond to the extent of the sum or sums so paid.

Bonds may be transferred on the books of registration kept by the Registrar by the registered owner in person or by his duly authorized attorney, upon surrender thereof, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney. Upon surrender for transfer of any Bond at the principal corporate trust office of the Trustee, the Issuer shall execute and the Trustee shall authenticate and deliver in the name of the transferee or transferees a new Bond or Bonds in the same aggregate principal amount and of any authorized denomination or denominations.

Bonds issued and delivered on and after the Completion Date may be exchanged at the principal corporate trust office of the Trustee for an equal aggregate principal amount of Bonds of any other authorized denomination or denominations. The Issuer shall execute and the Trustee shall authenticate and deliver Bonds which the bondholder making the exchange is entitled to receive, bearing numbers not contemporaneously then outstanding. The execution by the Issuer of any Bond of any denomination shall constitute full and due authorization of such denomination and the Trustee shall thereby be authorized to authenticate and deliver such bond.

The Trustee shall not be required to transfer or exchange any Bond during the period from and including a Record Date to the next succeeding Interest Payment Date of such Bond nor to transfer or exchange any Bond after the mailing of notice calling such Bond for redemption has been made and prior to such redemption.

Such transfers of registration or exchanges of Bonds shall be without charge to the holders of such Bonds, but any taxes or other governmental charges required to be paid with respect to the

same shall be paid by the holder of the Bond requesting such transfer or exchange as a condition precedent to the exercise of such privilege.

Section 211. Cancellation. All Bonds surrendered for the purpose of payment or retirement, or for exchange, or for replacement or payment as provided above shall be canceled upon surrender thereof to the Trustee and, at the option of the Trustee, either cremated, shredded or otherwise disposed of. In the case of cremating, shredding or other disposition, the Trustee shall execute and forward to the Issuer an appropriate certificate describing the Bonds involved and the manner of disposition.

Section 212. Temporary Bonds. Until Bonds in definitive form are ready for delivery, the Issuer may execute, and upon the request of the Issuer the Trustee shall authenticate and deliver, subject to the provisions, limitations and conditions set forth herein, one or more Bonds in temporary form, whether printed, typewritten, lithographed or otherwise produced, substantially in the form of the definitive Bonds, with appropriate omissions, variations and insertions, and in authorized denominations. Until exchanged for Bonds in definitive form, such Bonds in temporary form shall be entitled to the lien and benefit of this Indenture. Upon the presentation and surrender of any Bond or Bonds in temporary form, the Issuer shall, without unreasonable delay, prepare, execute and deliver to the Trustee and the Trustee shall authenticate and deliver, in exchange therefor, a Bond or Bonds in definitive form. Such exchange shall be made by the Trustee without making any charge therefor to the holder of such Bond in temporary form.

Section 213. Conversion of Bonds Upon Completion Date. Upon receipt of notice of the Completion Date as provided in Section 3.4 of the Lease Agreement, the Trustee shall give notice thereof to the registered owner of the Bonds (unless such registered owner is the Company). Such notice shall be given by mail in accordance with Section 302 hereof and shall state that such registered owner must deliver his Bond to the Trustee for conversion. The Trustee shall cancel the Bond so delivered and issue a form of Bond in lieu thereof pursuant to the provisions hereof.

Section 214. Home Office Payment Agreement. Notwithstanding any provision of this Indenture or of any Bond to the contrary, the Trustee may enter into a home office payment agreement with the Company and the owner of any Bond in a principal amount of at least \$1,000,000 providing for the making to such owner of all payments of principal, redemption premium (if any) and interest on such Bond or any part thereof (other than any payment of the entire unpaid principal amount thereof) at a place and in a manner other than as provided in this Indenture and in the Bonds without presentation or surrender of such Bonds, upon such conditions as shall be satisfactory to the Trustee. The Trustee agrees to make payments of principal, redemption premium (if any) and interest on the Bonds in accordance with the provisions thereof. Upon the transfer of any Bond being paid in accordance with the provisions of a home office payment agreement permitted by this Section, the Trustee, prior to the delivery of such Bond to the transferee, shall make a notation on such Bond of the date to which interest has been paid thereon and the amount of any prepayments made on account of the principal thereof.

### ARTICLE III

#### **REDEMPTION OF BONDS BEFORE MATURITY**

Section 301. Redemption of Bonds. The Bonds shall be subject to redemption prior to maturity at the option of the Issuer, to be exercised solely as directed by the Company, in whole or in part at any time (and if in part, by lot or in such other manner as may be determined by the Trustee to be fair and equitable), at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date.

Section 302. Notice. Notice of the call for any redemption, identifying the Bonds or portions thereof being called and the date on which they shall be presented for payment, shall be given by the Trustee by registered or certified mail to the registered owner of each such Bond addressed to such registered owner at his registered address and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure or defect has occurred.

Any notice mailed as provided in this Section shall be conclusively presumed to have been duly given, whether or not the registered owner receives the notice.

With respect to notice of redemption of the Bonds at the option of the Issuer (at the direction of the Company), unless moneys sufficient to pay the principal of and interest on the Bonds to be redeemed shall have been received by the Trustee prior to the giving of such notice, such notice shall state that said redemption shall be conditional upon the receipt of such moneys by the Trustee on or prior to the date fixed for such redemption. If such moneys shall not have been so received, such notice shall be of no force and effect, the Issuer shall not redeem such Bonds and shall instruct the Trustee to give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

Section 303. Redemption Payments. On or prior to the date fixed for redemption, funds shall be deposited with the Trustee to pay, and Trustee is hereby authorized and directed to apply such funds to the payment of, the Bonds or portions thereof called, together with accrued interest thereon to the redemption date. Upon the giving of notice and the deposit of funds for redemption, interest on the Bonds or portions thereof thus called shall no longer accrue after the date fixed for redemption.

Section 304. Cancellation. All Bonds which have been redeemed shall not be reissued but shall be canceled and disposed of by the Trustee in accordance with Section 211 hereof.

Section 305. Partial Redemption of Bonds. In case a Bond is of a denomination larger than \$100,000, a portion of such Bond (\$100,000 or any integral multiple of \$5,000 in excess of

\$100,000) may be redeemed, but Bonds shall be redeemed only in the principal amount of \$100,000 or any integral multiple of \$5,000 in excess of \$100,000. Upon surrender of any Bond for redemption in part only, the Issuer shall execute and the Trustee shall authenticate and deliver to the holder thereof a new Bond or Bonds in the same form and of authorized denominations in an aggregate principal amount equal to the unredeemed portion of the Bond surrendered.

## ARTICLE IV

### GENERAL COVENANTS

Section 401. Payment of Principal and Interest. The Issuer covenants that it will promptly pay or cause to be paid the principal of and interest on every Bond issued under this Indenture at the place, on the dates and in the manner provided herein and in the Bond according to the true intent and meaning thereof. The principal and interest (except interest paid from the proceeds from the sale of the Bonds and accrued interest) are payable solely from the Trust Estate (including, without limitation, Revenues), which is hereby specifically pledged to the payment thereof in the manner and to the extent herein specified, and nothing in the Bonds or this Indenture should be considered as assigning or pledging any funds or assets of the Issuer other than the Trust Estate in the manner and to the extent herein specified. Anything in this Indenture to the contrary notwithstanding, it is understood that whenever the Issuer makes any covenants involving financial commitments, including, without limitation, those in the various sections of this Article IV, it pledges no funds or assets other than the Trust Estate in the manner and to the extent herein specified, but nothing herein shall be construed as prohibiting the Issuer from using any other funds or assets.

Section 402. Performance of Covenants. The Issuer covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in any and every Bond executed, authenticated and delivered hereunder and in all ordinances pertaining thereto. The Issuer covenants that it is duly authorized under the Constitution and laws of the State of Arkansas, including particularly and without limitation the Act, to issue Bonds authorized hereby and to execute this Indenture and to make the pledge and covenants in the manner and to the extent herein set forth; that all action on its part for the issuance of the Bonds and the execution and delivery of this Indenture has been duly and effectively taken; and that the Bonds in the hands of the holders and owners thereof are and will be valid and enforceable obligations of the Issuer according to the import thereof.

Section 403. Instruments of Further Assurance. The Issuer covenants that it will do, execute, acknowledge and deliver or cause to be done, executed, acknowledged and delivered, such indenture or indentures supplemental hereto and such further acts, instruments and transfers as the Trustee may reasonably require for the better assuring, transferring, mortgaging, pledging, assigning and confirming unto the Trustee the Trust Estate.

Section 404. Recordation and Other Instruments. The Company has covenanted in Section 6.7 of the Lease Agreement to cause this Indenture, the Lease Agreement, such security agreements, financing statements and all supplements thereto and other instruments as may be required from time to time to be kept, to be recorded and filed in such manner and in such places as may be required by law and in the opinion of counsel in order to fully preserve and protect the security of the holders and owners of the Bonds and the rights of Trustee hereunder, and to perfect the security interest created by this Indenture. The Issuer and the Trustee covenant that they will cooperate with the Company in satisfaction of the requirements of Section 6.7 of the Lease Agreement.

Section 405. Inspection of Project Books. The Issuer and the Trustee covenant and agree that all books and documents in their possession relating to the Project and the revenues derived from the Project shall at all reasonable times upon reasonable advance notice be open to inspection by such accountants or other agencies as the other party may from time to time designate and by the Company.

Section 406. Rights Under Lease Agreement. The Lease Agreement, duly executed counterparts of which have been filed with the Trustee, sets forth the covenants and obligations of the Issuer and the Company, including provisions that subsequent to the issuance of Bonds and prior to their payment in full or provision for payment thereof in accordance with the provisions hereof the Lease Agreement may not be effectively amended, changed, modified, altered or terminated, or any provision waived without the written consent of the Trustee, and reference is hereby made to the same for a detailed statement of said covenants and obligations of the Company thereunder, and the Issuer agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer and all obligations of the Company under and pursuant to the Lease Agreement, for and on behalf of the bondholders, whether or not the Issuer is in default hereunder.

## ARTICLE V

### REVENUES AND FUNDS

Section 501. Creation of Bond Fund. There is hereby created and ordered to be established with the Trustee a trust fund of and in the name of the Issuer to be designated "Taxable Industrial Development Revenue Bond Fund - Nestlé Prepared Foods Company Project."

Section 502. Payments Into Bond Fund. There shall be deposited into the Bond Fund as and when received:

- (a) All Revenues;
- (b) All moneys received under the Guaranty Agreement for the payment of the principal of and interest on the Bonds; and
- (c) All moneys received by the Trustee under and pursuant to any of the provisions of the Lease Agreement or this Indenture which are not directed to be paid into a fund other than the Bond Fund.

Section 503. Use of Moneys in Bond Fund. Moneys in the Bond Fund shall be used solely for the payment of the principal of and interest on the Bonds as in the Bonds and this Indenture provided.

Section 504. Withdrawals from Bond Fund. The Bond Fund shall be in the name of the Issuer, designated as set forth in Section 501, and the Issuer hereby irrevocably authorizes and directs the Trustee to withdraw from the Bond Fund sufficient funds to pay the principal of and interest on the Bonds when due (including at maturity or redemption prior to maturity) and to use such funds for the purpose of paying principal and interest in accordance with the provisions hereof pertaining to payment, which authorization and direction the Trustee hereby accepts.

Section 505. Non-Presentation of Bonds. In the event any Bonds shall not be presented for payment when the principal thereof becomes due, either at maturity or otherwise, or at the date fixed for redemption thereof, if there shall have been deposited with the Trustee for that purpose, or left in trust if previously so deposited, funds sufficient to pay the principal thereof, together with all interest unpaid and due thereon, to the due date thereof, for the benefit of the holder thereof, all liability of the Issuer to the holder thereof for the payment of the principal thereof and interest thereon shall forthwith cease, determine and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such fund or funds, without liability for interest thereon, for benefit of the holder of such Bond, who shall thereafter be restricted exclusively to such fund or funds, for any claim of whatever nature on his part under this Indenture or on, or with respect to, the Bond.

Section 506. Fees, Expenses and Charges of Issuer and Trustee. It is understood and agreed that pursuant to the provisions of Section 5.3(b) of the Lease Agreement, the Company agrees to pay the reasonable fees, expenses and charges of the Trustee as authorized and provided by this Indenture and, pursuant to Section 5.3(c) of the Lease Agreement, the reasonable fees, expenses and charges of the Issuer as authorized, required and provided by this Indenture and by the Lease Agreement. All such payments under the Lease Agreement which are received by the Trustee shall not be paid into the Bond Fund, but shall be segregated by the Trustee and expended solely for the purpose for which such payments are received.

Section 507. Moneys to be Held in Trust. All moneys required to be deposited with or paid to the Trustee under any provision of this Indenture shall be held by the Trustee in trust, and except for moneys deposited with or paid to the Trustee for the redemption of Bonds notice of which redemption has been duly given, for moneys deposited with or paid to the Trustee pursuant to Article IX hereof, and for moneys held pursuant to Section 505 hereof, shall, while held by the Trustee, constitute part of the Trust Estate and be subject to the lien hereof. Any moneys received by or paid to the Trustee pursuant to any provisions of the Lease Agreement calling for the Trustee to hold, administer and disburse the same in accordance with the specific provisions of the Lease Agreement shall be held, administered and disbursed pursuant to such provisions, and where required by the provisions of the Lease Agreement the Trustee shall set the same aside in a separate account. The Issuer agrees that if it shall receive any moneys pursuant to applicable provisions of the Lease Agreement, it will forthwith upon receipt thereof pay the same over to the Trustee to be held, administered and disbursed by the Trustee in accordance with the provisions of the Lease Agreement pursuant to which the Issuer may have received the same. Furthermore, if for any reason the Lease Agreement ceases to be in force and effect while any Bonds are outstanding, the Issuer agrees that if it shall receive any moneys derived from the Project, it will forthwith upon receipt thereof pay the same over to the Trustee to be held, administered and disbursed by the Trustee in accordance with provisions of the Lease Agreement that would be applicable if the Lease Agreement were then in force and effect, and if there be no such provisions which would be so applicable, then the Trustee shall hold, administer and disburse such moneys solely for the discharge of the Issuer's obligations under this Indenture.

Section 508. Refund to Company of Excess Payments. Anything herein to the contrary notwithstanding, the Trustee is authorized and directed to refund to the Company all excess amounts as specified in the Lease Agreement, whether such excess amounts be in the Bond Fund or in special accounts.

Section 509. Termination of Rights of Bondholders. Anything herein to the contrary notwithstanding, including, without limitation, the provisions of this Article V and of Article IX and Article X hereof, all rights of any holder of any Bond hereunder to or with respect to any moneys or investments held in any fund hereunder shall terminate at the expiration of five years from the date of maturity of such Bond, whether by scheduled maturity or by call for redemption prior to maturity in accordance with the terms hereof, with respect to the principal thereof, or at the expiration of five years from an Interest Payment Date with respect to the interest payable on such date.

## ARTICLE VI

### APPLICATION OF PROCEEDS OF BONDS

Section 601. Deposits Into the Construction Fund. All moneys received by the Trustee from the Purchaser as Advances on the Bond shall be deposited in a special account of the Issuer in the Trustee, which account shall be designated "City of Jonesboro, Arkansas Taxable Industrial Development Revenue Bond Construction Fund - Nestlé Prepared Foods Company Project" (the "Construction Fund").

Section 602. Disbursements From Construction Fund. Moneys in the Construction Fund shall be disbursed by the Trustee to the Company (or to its order) for Project Costs (as defined in the Lease Agreement). Such disbursements shall be in accordance with and pursuant to requisitions which shall be signed by a Company Representative. Each requisition shall be in substantially the form attached as Exhibit C hereto and shall specify:

- (a) The name of the person, firm, corporation or bank to whom payment is to be made;
- (b) The amount of the payment;
- (c) The purpose of the expenditure; and
- (d) That the disbursement is for a proper item of Project Costs (as defined in the Lease Agreement).

The Trustee shall keep records concerning and reflecting all disbursements from the Construction Fund and shall file an accounting of disbursements if and when requested by the Issuer, the Company, or the Purchaser.

Section 603. Balance in Construction Fund. Upon receipt of the certificate specified in Section 3.4 of the Lease Agreement, the Trustee shall not accept any further requisitions pursuant to Section 602 hereof, but shall retain in the Construction Fund a sum equal to the amounts necessary for payment of the Project Costs not then due and payable as directed by a Company Representative. Any amount not to be retained in the Construction Fund for payment of Project Costs shall be used to prepay the Bonds.

## ARTICLE VII

### INVESTMENTS

Section 701. Investment of Moneys. (a) Moneys held for the credit of the Construction Fund shall, upon written direction by a Company Representative, be invested and reinvested by the Trustee in (i) Government Securities, (ii) interest bearing deposit accounts (which may be represented by certificates of deposit) in national or state banks (which may include the Trustee and any Paying Agent) having a combined capital and surplus of not less than \$10,000,000; (iii) bankers' acceptances drawn on and accepted by commercial banks (which may include the Trustee and any Paying Agent) having a combined capital and surplus of not less than \$10,000,000; (iv) direct obligations of, or obligations the principal of and interest on which are unconditionally guaranteed by, any State of the United States of America, the District of Columbia or the Commonwealth of Puerto Rico, or any political subdivision of any of the foregoing, which are rated in any of the two highest rating categories by a nationally recognized rating agency; (v) obligations of any agency or instrumentality of the United States of America; (vi) commercial or finance company paper which is rated in any of the two highest rating categories by a nationally recognized rating agency; (vii) corporate debt securities rated in any of the two highest rating categories by a nationally recognized rating agency; (viii) repurchase agreements with banking or financial institutions having a combined capital and surplus of not less than \$10,000,000 (which may include the Trustee and any Paying Agent) with respect to any of the foregoing obligations or securities; (ix) shares in an investment company registered under the Federal Investment Company Act of 1940 whose shares are registered under the Federal Securities Act of 1933, or shares of a common trust fund established by a national banking association or a bank or trust company organized under the laws of any state (which may include the Trustee and any Paying Agent) with combined capital and surplus of at least \$10,000,000, under the supervision and regulation of the Comptroller of the Currency pursuant to 12 C.F.R. 9, or any successor regulation, and whose only investments are qualified investments described hereinabove; (x) money market funds or pooled or mutual investment funds whose assets consist primarily of investments which are qualified investments described in clause (iv) hereinabove or which are rated in one of the highest rating categories by a nationally recognized rating agency (including any such fund managed by the Trustee), and whose average maturity of such investment is less than twelve (12) months; and (xi) investment agreements or guaranteed investment contracts with any financial institution rated in one of the highest rating categories by a nationally recognized rating agency. Such investment shall have maturity dates, or shall be subject to redemption by the holder at the option of the holder, on or prior to the dates the moneys invested therein will be needed as reflected by a statement of the Company Representative which statement must be on file with the Trustee prior to any investment.

(b) Moneys held for the credit of the Bond Fund or any other fund or account shall, upon written direction by a Company Representative, be invested and reinvested in Government Securities (or in any fund or other pooling arrangement which exclusively purchases and holds Government Securities and which is rated in any of the two highest rating categories by a nationally recognized rating agency) which will mature, or which will be subject to redemption by the holder thereof at the

option of the holder, not later than the date or dates on which the money held for credit of the particular fund or account shall be required for the purposes intended, provided that moneys held pursuant to Section 505 hereof shall be held uninvested or shall be invested and reinvested in Government Securities maturing overnight from the date of purchase.

(c) Obligations so purchased as an investment of moneys in any fund or account shall be deemed at all times a part of such fund or account. Any profit and income realized from such investments shall be credited to the fund or account and any loss shall be charged to the fund or account.

Section 702. Trustee Not Liable for Losses. The Trustee shall not be liable or responsible for any loss resulting from any investment as authorized pursuant to Section 701 hereof or for determining whether any such investment is an authorized investment under applicable law. The Trustee may rely on the investment direction of the Company as to both the suitability and legality of the directed investments. The Trustee shall not be responsible for paying interest on any uninvested funds held by it hereunder or for the investment of any fund or account not held by the Trustee. As long as the Trustee provides periodic statements to the Company of investment activity, the Trustee shall not be required to provide brokerage confirmations; provided, however, no statement shall be required for any month in which there is no investment activity.

## ARTICLE VIII

### **RIGHTS AND OBLIGATIONS UNDER THE LEASE AGREEMENT**

Section 801. Rights of Company Under Lease Agreement. Nothing herein contained shall be deemed to impair the rights and privileges of the Company set forth in the Lease Agreement and an Event of Default hereunder shall not constitute an "Event of Default" under the Lease Agreement unless by the terms of the Lease Agreement it constitutes an Event of Default thereunder.

Section 802. Rights of Issuer Under Lease Agreement. The Issuer agrees that the Trustee in its name or in the name of the Issuer may enforce all rights of the Issuer (except for the rights of the Issuer under Sections 5.3(c), 6.2, 6.5 and 8.5 thereof and any rights of the Issuer to receive notices, certificates, or other communications thereunder) and all obligations of the Company under and pursuant to the Lease Agreement, for and on behalf of the bondholders, whether or not the Issuer is in default hereunder.

Section 803. Trustee's Obligations Under Lease Agreement. The Trustee represents that it has familiarized itself with the provisions of the Lease Agreement and covenants and agrees that it will perform any and all of its obligations set forth therein with respect to the rights of the Issuer and the Company thereunder.

## ARTICLE IX

### DISCHARGE OF LIEN

Section 901. Discharge of Lien. If the Issuer shall pay or cause to be paid to the holders and owners of the Bonds the principal and interest to become due thereon at the times and in the manner stipulated therein, and if the Issuer shall keep, perform and observe all and singular the covenants and promises in the Bonds and in this Indenture expressed as to be kept, performed and observed by it on its part, then these presents and the estate and rights hereby granted shall cease, determine and be void. Thereupon the Trustee shall cancel and discharge the lien of this Indenture, and execute and deliver to the Issuer such instruments in writing as shall be requisite to satisfy the lien hereof, and reconvey to the Issuer the estate hereby conveyed, and assign and deliver to the Issuer any property at the time subject to the lien of this Indenture which may then be in its possession, except moneys or Government Securities held by it for the payment of the principal of and interest on the Bonds.

Any Bond shall be deemed to be paid within the meaning of this Article when payment of the principal of and interest on such Bond, (whether at maturity or upon redemption as provided in this Indenture, or otherwise), either (i) with respect to any Bond shall have been made or caused to be made in accordance with the terms thereof, or (ii) with respect to any Bond shall have been provided for by irrevocably depositing with the Trustee, in trust and irrevocably set aside exclusively for such payment, (1) moneys sufficient to make such payment or (2) noncallable Government Securities, maturing as to principal and interest in such amount and at such times as will provide sufficient moneys to make such payment and to purchase such Bonds, and all necessary and proper fees, compensation and expenses of the Trustee pertaining to the Bonds with respect to which such deposit is made and all other liabilities of the Company under the Lease Agreement shall have been paid or the payment thereof provided for to the satisfaction of the Trustee.

The Issuer or the Company may at any time surrender to the Trustee for cancellation by it any Bonds previously authenticated and delivered hereunder, which the Issuer or the Company may have acquired in any manner whatsoever, and such Bonds, upon such surrender and cancellation, shall be deemed to be paid and retired.

## ARTICLE X

### **DEFAULT PROVISIONS AND REMEDIES OF TRUSTEE AND BONDHOLDERS**

Section 1001. Events of Default. Each of the following events shall constitute and is referred to in this Indenture as an "Event of Default":

(a) Default in the due and punctual payment of any interest on any Bond hereby secured and outstanding.

(b) Default in the due and punctual payment of the principal of any Bond hereby secured and outstanding, whether at the stated maturity thereof, or upon proceedings for redemption thereof, or upon the maturity thereof by declaration.

(c) Default in the payment of any other amount required to be paid under this Indenture or the performance or observance of any other of the covenants, agreements or conditions contained in this Indenture, or in the Bonds issued under this Indenture, and continuance thereof for a period of sixty (60) days after written notice specifying such failure and requesting that it be remedied, shall have been given to the Issuer and the Company by the Trustee, which may give such notice in its discretion and shall give such notice at the written request of bondholders of not less than 10% in aggregate principal amount of the Bonds then outstanding, unless the Trustee, or the Trustee and bondholders of an aggregate principal amount of Bonds not less than the aggregate principal amount of Bonds the bondholders of which requested such notice, as the case may be, shall agree in writing to an extension of such period prior to its expiration; provided, however, if the failure stated in the notice cannot be corrected within the applicable period, the Issuer and the Trustee will not unreasonably withhold their consent to an extension of such time if corrective action is instituted by the Issuer, or the Company on behalf of the Issuer, within such period and is being diligently pursued.

(d) The occurrence of an "Event of Default" under the Lease Agreement.

(e) The occurrence of an "Event of Default" under the Guaranty Agreement.

Section 1002. Acceleration. Upon the occurrence of an Event of Default described in the first paragraph of Section 1001 hereof, the Trustee may, and upon the written request of the holders of two-thirds (2/3) in aggregate principal amount of Bonds outstanding hereunder, shall, in either case only with prior written consent of the Purchaser (so long as the Purchaser is owner of not less than 100% in aggregate principal amount of the Bonds), by notice in writing delivered to the Issuer and the Company, declare the principal of all Bonds hereby secured then outstanding and the interest accrued thereon immediately due and payable, and such principal and interest shall thereupon become and be immediately due and payable and interest shall cease to accrue on all Bonds issued hereunder.

Section 1003. Other Remedies; Rights of Bondholders. Upon the occurrence of an Event of Default, the Trustee may, as an alternative, pursue any available remedy by suit at law or in equity to enforce the payment of the principal of and interest on the Bonds then outstanding hereunder.

If an Event of Default shall have occurred, and if it shall have been requested so to do by the holders of two-thirds (2/3) in aggregate principal amount of Bonds outstanding hereunder and shall have been indemnified as provided in Section 1101 hereof, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred upon it by this Section and by Section 1002 as the Trustee, being advised by counsel, shall deem most expedient in the interests of the bondholders.

No remedy by the terms of this Indenture conferred upon or reserved to the Trustee (or to the bondholders) is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given hereunder or now or hereafter existing at law or in equity or by statute.

No delay or omission to exercise any right or power accruing upon any default or Event of Default shall impair any such right or power or shall be construed to be a waiver of any such default or Event of Default or acquiescence therein; and every such right and power may be exercised from time to time and as often as may be deemed expedient.

No waiver of any default or Event of Default hereunder, whether by the Trustee or by the bondholders, shall extend to or shall affect any subsequent default or Event of Default or shall impair any rights or remedies consequent thereon.

Nothing in this Section 1003 shall be construed to relieve the Trustee of its obligation to cause an acceleration when required or to pay the bondholders the amounts due them when due.

Section 1004. Rights of Bondholders to Direct Proceedings. Anything in this Indenture to the contrary notwithstanding, the holders of a majority in aggregate principal amount of Bonds outstanding hereunder shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee with indemnity to the Trustee's satisfaction, to direct the method and place of conducting all proceedings to be taken in connection with the enforcement of the terms and conditions of this Indenture, or for the appointment of a receiver or any other proceeding hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture.

Section 1005. Appointment of Receiver. Upon the occurrence of an Event of Default, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the bondholders under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the tolls, rents, revenues, issues, earnings, income, products and profits thereof, pending such proceedings with such powers as the court making such appointment shall confer.

Section 1006. Waiver. In case of an Event of Default on its part, as aforesaid, to the extent that such rights may then lawfully be waived, neither the Issuer nor anyone claiming through it or under it shall or will set up, claim, or seek to take advantage of any appraisement, valuation, stay, extension or redemption laws now or thereafter in force, in order to prevent or hinder the enforcement of this Indenture, but the Issuer, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws and all right of appraisement and redemption to which it may be entitled under the laws of the State of Arkansas.

Section 1007. Application of Moneys. Moneys remaining after discharge of costs, charges and liens prior to this Indenture and the fees and expenses of the Trustee shall be applied by the Trustee as follows:

(a) Unless the principal of all the Bonds shall have become or shall have been declared due and payable, all such moneys shall be applied:

First: To the payment to the persons entitled thereto of all installments of interest then due, in the order of the maturity of the installments of such interest, and, if the amount available shall not be sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege;

Second: To the payment to the persons entitled thereto of the unpaid principal of any of the Bonds which shall have become due (other than Bonds called for redemption for the payment of which moneys are held pursuant to the provisions of this Indenture), in the order of their due dates, with interest on such Bonds from the respective dates upon which they become due, and, if the amount available shall not be sufficient to pay in full Bonds due on any particular date, together with such interest, then to the payment ratably, according to the amount of principal due on such date, to the persons entitled thereto without any discrimination or privilege of any Bond over any other Bond and without preference or priority of principal over interest or of interest over principal; and

Third: To the payment of the interest on and the principal of the Bonds, and to the redemption of Bonds, all in accordance with the provisions of Article V of this Indenture.

(b) If the principal of all the Bonds shall have become due or shall have been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid upon the Bonds, without preference or priority of principal over interest or of interest over principal, or of any Bond over any other Bond, ratably, according to the amounts due respectively for principal and interest, to the person entitled thereto without discrimination or privilege.

(c) If the principal of all the Bonds shall have been declared due and payable, and if such declaration shall thereafter have been rescinded and annulled under the provisions of this Article then, subject to the provisions of paragraph (b) of this Section in the event that the principal of all the Bonds shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of paragraph (a) of this Section.

Whenever moneys are to be applied by the Trustee pursuant to the provisions of this Section, such moneys shall be applied by it at such times, and from time to time, as it shall determine, having due regard to the amount of such moneys available for application and the likelihood of additional moneys becoming available for such application in the future. Whenever the Trustee shall apply such funds, it shall fix the date (which shall be an Interest Payment Date unless it shall deem another date more suitable) upon which such application is to be made and upon such date (other than in the case of a declaration under Section 1002 hereof) interest on the amounts of principal to be paid on such dates shall cease to accrue. The Trustee shall give such notice as it may deem appropriate of the deposit with it of any such moneys and of the fixing of any such date and shall not be required to make payment to the holder of any unpaid Bond until such Bond shall be presented to the Trustee for appropriate endorsement or for cancellation if fully paid.

Section 1008. Remedies Vested in Trustee. All rights of action (including the right to file proof of claim) under this Indenture or under any of the Bonds may be enforced by the Trustee without the possession of any of the Bonds or the production thereof in any trial or other proceeding relating thereto and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee, without the necessity of joining as plaintiffs or defendants any holders of the Bonds hereby secured, and any recovery of judgment shall be for the equal benefit of the holders of the outstanding Bonds.

Section 1009. Rights and Remedies of Bondholders. No holder of any Bond shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereof or for the appointment of a receiver or any other remedy hereunder, unless a default has occurred of which the Trustee has been notified as provided in subsection (g) of Section 1101, or of which by said subsection it is deemed to have notice, nor unless such default shall have become an Event of Default and the holders of two-thirds (2/3) in aggregate principal amount of Bonds outstanding hereunder shall have made written request to the Trustee and shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, nor unless also they have offered to the Trustee indemnity as provided in Section 1101 nor unless the Trustee shall thereafter fail or refuse to exercise the powers hereinbefore granted, or to institute such action, suit or proceeding in its own name; and such notification, request and offer of indemnity are hereby declared in every such case at the option of the Trustee to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture or for the appointment of a receiver or for any other remedy hereunder; it being understood and intended that no one or more holders of the Bonds shall have any right in any manner whatsoever to affect, disturb or prejudice the lien of this Indenture by his or their action or to enforce

any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, held and maintained in the manner herein provided for the equal benefit of the holders of all Bonds outstanding hereunder. Nothing in this Indenture contained shall, however, affect or impair the right of (i) any bondholders to enforce the payment of the principal of and interest on any Bonds at and after the maturity thereof, or the obligation of the Issuer to pay the principal of and interest on each of the Bonds issued hereunder to the respective holders thereof at the time and place in said Bonds, and (ii) the Purchaser (so long as the Purchaser is owner of not less than 100% in aggregate principal amount of the Bonds) to institute in its own name any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the appointment of a receiver or any other remedy hereunder.

Section 1010. Termination of Proceedings. In case the Trustee shall have proceeded to enforce any right under this Indenture by the appointment of a receiver or otherwise, and such proceedings shall have been discontinued or abandoned for any reason, or shall have been determined adversely to the Trustee, then and in every such case the Issuer and the Trustee shall be restored to their former positions and rights hereunder with respect to the property herein conveyed, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken, except to the extent the Trustee is legally bound by such adverse determination.

Section 1011. Waivers of Events of Default. The Trustee may in its discretion waive any Event of Default hereunder and its consequences and rescind any declaration of maturity of principal and shall do so upon the written request of the holders of two-thirds (2/3) in aggregate principal amount of Bonds outstanding hereunder, in either case only with prior written consent of the Purchaser (so long as the Purchaser is owner of not less than 100% in aggregate principal amount of the Bonds), provided, however, that there shall not be waived any Event of Default described in clause (a) or (b) of the first paragraph of Section 1001 hereof, unless prior to such waiver or rescission all arrears of principal (due otherwise than by declaration) and interest and all expenses of the Trustee, shall have been paid or provided for. In case of any such waiver or rescission the Issuer, Trustee and the bondholders shall be restored to their former positions and rights hereunder respectively; but no such waiver or rescission shall extend to any subsequent or other default, or impair any right subsequent thereon.

## ARTICLE XI

### TRUSTEE

Section 1101. Acceptance of Trusts. The Trustee hereby accepts the trust imposed upon it by this Indenture, and agrees to perform said trust as an ordinarily prudent trustee under a corporate mortgage, but only upon and subject to the following expressed terms and conditions:

(a) The Trustee may execute any of the trusts or powers hereof and perform any duties required of it by or through attorneys, agents, receivers or employees, and shall be entitled to advice of counsel concerning all matters of trusts hereof and its duties hereunder, and may in all cases pay reasonable compensation to all such attorneys, agents, receivers and employees as may reasonably be employed in connection with the trusts hereof. The Trustee may act upon the opinion or advice of any attorney, surveyor, engineer or accountant selected by it in the exercise of reasonable care, or, if selected or retained by the Issuer prior to the occurrence of a default of which the Trustee has been notified as provided in subsection (g) of this Section 1101, or of which by said subsection the Trustee is deemed to have notice, approved by the Trustee in the exercise of such care. The Trustee shall not be responsible for any loss or damage resulting from an action or non-action in accordance with any such opinion or advice.

(b) The Trustee shall not be responsible for any recital herein, in any offering document, or in the Bonds (except in respect to the certificate of the Trustee endorsed on such Bonds), or for insuring the property herein conveyed or collecting any insurance moneys, or for the validity of the execution by the Issuer of this Indenture or of any supplemental indentures or instrument of further assurance, or for the sufficiency of the security for the Bonds issued hereunder or intended to be secured hereby, or for the value of the title of the property herein conveyed or otherwise as to the maintenance of the security hereof; except that in the event the Trustee enters into possession of a part or all of the property herein conveyed pursuant to any provision of this Indenture, it shall use due diligence in preserving such property; and the Trustee shall not be bound to ascertain or inquire as to the performance or observance of any covenants, conditions and agreements aforesaid as to the condition of the property herein conveyed.

(c) The Trustee may become the owner of Bonds secured hereby with the same rights which it would have if not Trustee.

(d) The Trustee shall be protected in acting upon any notice, request, consent, certificate, order, affidavit, letter, telegram or other paper or document believed by it, in the exercise of reasonable care, to be genuine and correct and to have been signed or sent by the proper person or persons. Any action taken by the Trustee pursuant to this Indenture upon the request or authority or consent of the owner of any Bond secured hereby, shall be conclusive and binding upon all future owners of the same Bond and upon Bonds issued in exchange therefor or in place thereof.

(e) As to the existence or non-existence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, the Trustee shall be entitled to rely upon a certificate of the Issuer signed by its Mayor and attested by its City Clerk as sufficient evidence of the facts therein contained and prior to the occurrence of a default of which it has been notified as provided in subsection (g) of this Section 1101, or of which by that subsection it is deemed to have notice, and shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion, at the reasonable expense of the Issuer, in every case secure such further evidence as it may think necessary or advisable but shall in no case be bound to secure the same. The Trustee may accept a certificate of the City Clerk of the Issuer under its seal to the effect that a resolution or ordinance in the form therein set forth has been adopted by the Issuer as conclusive evidence that such resolution or ordinance has been duly adopted, and is in full force and effect.

(f) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty of the Trustee, and the Trustee shall be answerable only for its own negligence or willful default.

(g) The Trustee shall not be required to take notice or be deemed to have notice of any default hereunder (except a default under clause (a), (b) or (c) of the first paragraph of Section 1001 hereof concerning which the Trustee shall be deemed to have notice) unless the Trustee shall be specifically notified in writing of such default by the Issuer or by the holders of at least ten percent (10%) in aggregate principal amount of Bonds outstanding hereunder and all notices or other instruments required by this Indenture to be delivered to the Trustee must, in order to be effective, be delivered to the office of the Trustee, and in the absence of such notice so delivered, the Trustee may conclusively assume there is no such default except as aforesaid.

(h) The Trustee shall not be personally liable for any debts contracted or for damages to persons or to personal property injured or damaged, or for salaries or non-fulfillment of contracts during any period in which it may be in the possession of or managing the real and tangible personal property as in this Indenture provided.

(i) At any and all reasonable times the Trustee, and its duly authorized agents, attorneys, experts, engineers, accountants and representatives, shall have the right fully to inspect any and all of the property herein conveyed, including all books, papers and records of the Issuer pertaining to the Project and the Bonds, and to take such memoranda from and in regard thereto as may be desired, provided, however, that nothing contained in this subsection or in any other provision of this Indenture shall be construed to entitle the above named persons to any information or inspection involving the confidential know-how of the Company.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of the said trusts and powers or otherwise in respect of the premises.

(k) Notwithstanding anything elsewhere in this Indenture contained, the Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Bonds, the withdrawal of any cash, the release of any property, or any action whatsoever within the purview of this Indenture, any showings, certificates, opinions, appraisals, or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required as a condition of such action by the Trustee, deemed desirable for the purpose of establishing the right of the Issuer to the authentication of any Bonds, the withdrawal of any cash, the release of any property, or the taking of any other action by the Trustee.

(l) Before taking such action hereunder, the Trustee may require that it be furnished an indemnity bond or other security satisfactory to it for the reimbursement to it of all expenses to which it may be put and to protect it against all liability, except liability which is adjudicated to have resulted from the gross negligence or willful default of the Trustee, by reason of any action so taken by the Trustee; provided, however, the Trustee shall not require that it be furnished an indemnity bond prior to (i) declaring the maturity of principal of the Bonds pursuant to Section 1002 hereof, or (ii) holding, administering and disbursing moneys deposited in the Bond Fund.

(m) No provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial liability in the performance of any of its duties hereunder. The Trustee shall have no responsibility for the use of the Bond proceeds paid out in accordance with the provisions of this Indenture.

Section 1102. Fees, Charges and Expenses of Trustee; Trustee's Prior Lien. The Trustee shall be entitled to payment and/or reimbursement for its reasonable fees for services rendered hereunder and all advances, counsel fees and other expenses reasonably and necessarily made or incurred by the Trustee in and about the execution of the trusts created by this Indenture and in and about the exercise and performance by the Trustee of the powers and duties of the Trustee hereunder, and for all reasonable and necessary costs and expenses incurred in defending any liability in the premises of any character whatsoever (unless such liability is adjudicated to have resulted from the gross negligence or willful default of the Trustee). The Issuer has made provisions in the Lease Agreement for the payment of such reasonable and necessary advances, fees, costs and expenses and reference is hereby made to the Lease Agreement for the provisions so made. In this regard, it is understood that the Issuer pledges no funds or revenues other than those derived from and the avails of the Trust Estate to the payment of any obligation of the Issuer set forth in this Indenture, including the obligations set forth in this Section 1102, but nothing herein shall be construed as prohibiting the Issuer from using any other funds and revenues for the payment of any of its obligations under this Indenture. Upon default by the Issuer, but only upon default, pursuant to the provisions of this Indenture pertaining to default, the Trustee shall have a first lien with right of payment prior to payment on account of principal or interest of any Bond issued hereunder upon the Trust Estate (other than moneys, securities or obligations held for the redemption or payment of Bonds deemed to have been paid in accordance with Article IX hereof, or funds held pursuant to Section 505 hereof) for such reasonable and necessary advances, fees, costs and expenses incurred by the Trustee.

Section 1103. Notice to Bondholders of Default. The Trustee shall be required to make demand upon and give notice to the Company and each registered owner of Bonds then outstanding as follows:

(a) If the Company shall fail to make any installment payment under the Lease Agreement on the day such payment is due and payable, the Trustee shall give notice to and make demand upon the Company on the next succeeding Business Day.

(b) If a default occurs of which the Trustee is pursuant to the provisions of Section 1101(g) deemed to have or is given notice, the Trustee shall promptly give notice to the Company and to bondholders generally; provided, however, that no notice shall be required to be given to bondholders generally unless the default is such that the bondholders could require the Trustee to act pursuant to Section 1002 hereof.

Section 1104. Intervention by Trustee. In any judicial proceeding to which the Issuer is a party and which in the opinion of the Trustee and its counsel has a substantial bearing on the interests of holders of Bonds issued hereunder, the Trustee may intervene on behalf of bondholders and shall do so if requested in writing by the holders of at least ten percent (10%) of the aggregate principal amount of Bonds outstanding hereunder. The rights and obligations of the Trustee under this Section 1104 are subject to the approval of the court having jurisdiction in the premises.

Section 1105. Merger or Consolidation of Trustee. Any bank or trust company to which the Trustee may be merged, or with which it may be consolidated, or to which it may sell or transfer its trust business and assets as a whole or substantially as a whole, or any bank or trust company resulting from any such sale, merger, consolidation or transfer to which it is a party, ipso facto, shall be and become successor trustee hereunder and vested with all of the title to the whole property or Trust Estate and all the trusts, powers, discretions, immunities, privileges, and all other matters as was its predecessor, without the execution or filing of any instrument or any further act, deed or conveyance on the part of any of the parties hereto, anything herein to the contrary notwithstanding; provided, however, that such successor trustee shall have capital and surplus of at least \$50,000,000.

Section 1106. Resignation by Trustee. The Trustee and any successor trustee may at any time resign from the trusts hereby created by giving thirty (30) days written notice to the Issuer, and such resignation shall take effect at the end of such thirty (30) days (provided a successor trustee has been duly appointed) or upon the earlier appointment of a successor trustee by the bondholders or by the Issuer. Such notice may be served personally or sent by registered mail.

Section 1107. Removal of Trustee. The Trustee may be removed at any time by an instrument or concurrent instruments in writing delivered to the Trustee and to the Issuer, and signed by the holders of a majority in aggregate principal amount of Bonds outstanding hereunder. Such removal shall not take effect until the appointment of a successor trustee.

Section 1108. Appointment of Successor Trustee. In case the Trustee hereunder shall resign or be removed, or be dissolved, or shall be in course of dissolution or liquidation, or otherwise become incapable of acting hereunder, or in case it shall be taken under the control of any public officer or officers, or of a receiver appointed by the court, a successor may be appointed by the Issuer, as directed by the Company (so long as no Event of Default has occurred and is continuing), by an instrument executed and signed by its Mayor and attested by its City Clerk under its seal, or by the holders of a majority in aggregate principal amount of Bonds outstanding hereunder (if an Event of Default has occurred and is continuing), by an instrument or concurrent instruments in writing signed by such holders, or by their attorneys in fact, duly authorized; provided, nevertheless, that if within thirty (30) days of the resignation, removal or dissolution of the Trustee hereunder the Issuer or the holders, as the case may be, fail to so appoint a successor to fill such vacancy, the Trustee may apply to a court of competent jurisdiction which shall have authority to appoint a temporary trustee until a successor trustee shall be appointed by the Issuer or the bondholders in the manner above provided. Any such temporary trustee so appointed by a court of competent jurisdiction shall immediately and without further act be superseded by the trustee so appointed by the Issuer or such bondholders. Every such temporary trustee and every such successor trustee shall be a trust company or bank in good standing, having capital and surplus of not less than \$50,000,000, and shall be satisfactory to the Company so long as there is no termination of the interest of the Company by virtue of an event of default or otherwise.

Section 1109. Concerning Any Successor Trustee. Every successor or temporary trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Issuer an instrument in writing accepting such appointment hereunder, and thereupon such successor or temporary trustee, without any further act or conveyance, shall become fully vested with all the estates, properties, rights, powers, trusts, duties and obligations of its predecessor; but such predecessor shall, nevertheless, on the written request of the Issuer or of its successor trustee, execute and deliver an instrument transferring to such successor all the estate, properties, rights, powers and trusts of such predecessor hereunder; and every predecessor trustee shall deliver all securities, moneys and any other property held by it as trustee hereunder to its successor. Should any instrument in writing from the Issuer be required by any successor trustee for more fully and certainly vesting in such successor the estates, rights, powers and duties hereby vested or intended to be vested in the predecessor trustee, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. The resignation of any trustee and the instrument or instruments removing any trustee and appointing a successor hereunder, together with all other instruments provided for in this Article shall, at the expense of the Issuer, be forthwith filed and/or recorded by the successor trustee in each recording office where the Indenture shall have been filed and/or recorded.

Section 1110. Reliance Upon Instruments. The resolutions, opinions, certificates and other instruments provided for in this Indenture may be accepted and relied upon by the Trustee as conclusive evidence of the facts and conclusions stated therein and shall be full warrant, protection and authority to the Trustee for its actions taken hereunder.

Section 1111. Appointment of Co-Trustee. The Issuer and the Trustee shall have power to appoint and upon the request of the Trustee the Issuer shall for such purpose join with the Trustee in the execution of all instruments necessary or proper to appoint another corporation or one or more persons approved by the Trustee, and satisfactory to the Company so long as there is no termination of the interest of the Company by virtue of an event of default or otherwise, either to act as co-trustee or co-trustees jointly with the Trustee of all or any of the property subject to the lien hereof, or to act as separate trustee or trustee of all or any such property, with such powers as may be provided in the instrument of appointment and to vest in such corporation or person or persons as such separate trustee or co-trustee any property, title, right or power deemed necessary or desirable. In the event that the Issuer shall not have joined in such appointment within fifteen (15) days after the receipt by it of a request so to do, the Trustee alone shall have the power to make such appointment. Should any deed, conveyance or instrument in writing from the Issuer be required by separate trustee or co-trustee so appointed for more fully and certainly vesting in and confirming to him or to it such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Issuer. Every such co-trustee and separate trustee shall, to the extent permitted by law, be appointed subject to the following provisions and conditions, namely:

(a) The Bonds shall be authenticated and delivered, and all powers, duties, obligations and rights conferred upon the Trustee in respect of the custody of all money and securities pledged or deposited hereunder, shall be exercised solely by the Trustee; and

(b) The Trustee, at any time by an instrument in writing, may remove any such separate Trustee or co-trustee.

Every instrument, other than this Indenture, appointing any such co-trustee or separate trustee, shall refer to this Indenture and the conditions of this Article XI expressed, and upon the acceptance in writing by such separate trustee or co-trustee, he, they or it shall be vested with the estate or property specified in such instrument, jointly with the Trustee (except insofar as local law makes it necessary for any separate trustee to act alone), subject to all the trusts, conditions and provisions of this Indenture. Any such separate trustee or co-trustee may at any time, by an instrument in writing, constitute the Trustee as his, their or its agent or attorney-in-fact with full power and authority, to the extent authorized by law, to do all acts and things and exercise all discretion authorized or permitted by him, them or it, for and on behalf of him, them or it and in his, their or its name. In case any separate trustee or co-trustee shall die, become incapable of acting, resign or be removed, all the estate, properties, rights, powers, trusts, duties and obligations of said separate trustee or co-trustee shall vest in and be exercised by the Trustee until the appointment of a new trustee or a successor to such separate trustee or co-trustee.

## ARTICLE XII

### SUPPLEMENTAL INDENTURES

Section 1201. Supplemental Indentures Not Requiring Consent of Bondholders. The Issuer and the Trustee may, from time to time and at any time, without the consent of or notice to the bondholders, enter into supplemental indentures as follows:

- (a) to cure any formal defect, omission, inconsistency or ambiguity in this Indenture;
- (b) to grant to or confer or impose upon the Trustee for the benefit of the bondholders any additional rights, remedies, powers, authority, security, liabilities or duties which may lawfully be granted, conferred or imposed and which are not contrary to or inconsistent with this Indenture as theretofore in effect, provided that no such additional liabilities or duties shall be imposed upon the Trustee without its consent;
- (c) to add to the covenants and agreements of, and limitations and restrictions upon, the Issuer in this Indenture other covenants, agreements, limitations and restrictions to be observed by the Issuer which are not contrary to or inconsistent with this Indenture as theretofore in effect;
- (d) to confirm, as further assurance, any pledge under, and the subjection to any claim, lien or pledge created or to be created by, this Indenture, of the Revenues of the Issuer from the Lease Agreement or of any other moneys, securities or funds;
- (e) to comply with the requirements of the Trust Indenture Act of 1939, as from time to amended;
- (f) to modify, alter, amend or supplement this Indenture in any other respect which is not materially adverse to the bondholder and which does not involve a change described in clause (a), (b), (c), (d), (e) or (f) of Section 1202 hereof and which, in the judgment of the Trustee, is not to the prejudice of the Trustee; and
- (g) to effect any change required in connection with the rating of the Bonds.

Section 1202. Supplemental Indentures Requiring Consent of Bondholders. Subject to the terms and provisions contained in this Section, and not otherwise, the holders of not less than two thirds (2/3) in aggregate principal amount of the Bonds then outstanding shall have the right, from time to time, anything contained in this Indenture to the contrary notwithstanding to consent to and

approve the execution by the Issuer and the Trustee of such indenture or indentures supplemental hereto as shall be deemed necessary and desirable by the Issuer for the purpose of modifying, altering, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any supplemental indenture; provided, however, that nothing herein contained shall permit, or be construed as permitting, without the consent and approval of the holders of all of the Bonds then outstanding (a) an extension of the maturity (or mandatory redemption date) of the principal of or the interest on any Bond issued hereunder, or (b) a reduction in the principal amount of or rate of interest on any Bond issued hereunder, or (c) the creation of any lien ranking prior to or on a parity with the lien of this Indenture on the Trust Estate or any part thereof, except as hereinbefore expressly permitted, or (d) a privilege or priority of any Bond or Bonds over any other Bond or Bonds, or (e) a reduction in the aggregate principal amount of the Bonds required for consent to such supplemental indenture, or (f) deprive the holder of any Bond then outstanding of the lien hereby created on the Trust Estate. Nothing herein contained, however, shall be construed as making necessary the approval of bondholders of the execution of any supplemental indenture as provided in Section 1201 of this Article.

If, at any time the Issuer shall request the Trustee to enter into any supplemental indenture for any of the purposes of this Section, the Trustee shall, at the expense of the Issuer, cause notice of the proposed execution of such supplemental indenture to be mailed by first class mail to each registered owner of the Bonds. Such notice shall briefly set forth the nature of the proposed supplemental indenture and shall state that copies thereof are on file at the principal office of the Trustee for inspection by bondholders. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to mail such notice, and any such failure shall not affect the validity of such supplemental indenture when consented to and approved as provided in this Section. If the holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds outstanding at the time of the execution of any such supplemental indenture shall have consented to and approved the execution thereof as herein provided, no holder of any Bond shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Issuer from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such supplemental indenture, this Indenture shall be deemed to be modified and amended in accordance therewith.

Section 1203. Consent of Company. Anything herein to the contrary notwithstanding, a supplemental indenture under this Article XII shall not become effective unless and until the Company shall have consented to the execution and delivery of such supplemental indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any such supplemental indenture together with a copy of the proposed supplemental indenture to be mailed by certified or registered mail to the Company at least fifteen (15) days prior to the proposed date of execution and delivery of any such supplemental indenture. The Company shall be deemed to have consented to the execution and delivery of any such supplemental indenture if the Trustee receives a letter or other instrument signed by an authorized officer of the Company expressing consent.

## ARTICLE XIII

### AMENDMENT TO LEASE AGREEMENT OR GUARANTY AGREEMENT

Section 1301. Amendments Not Requiring Consent of Bondholders. The Trustee may from time to time, and at any time, consent to any amendment, change or modification of the Lease Agreement or the Guaranty Agreement for the purpose of curing any ambiguity or formal defect or omission or making any other change therein, which in the reasonable judgment of the Trustee is not to the prejudice of the Trustee or the holders of the Bonds. The Trustee shall not consent to any other amendment, change or modification of the Lease Agreement or the Guaranty Agreement without the approval or consent of the holders of not less than two-thirds (2/3) in aggregate principal amount of the Bonds at the time outstanding, evidenced in the manner provided in Section 1401 hereof.

Section 1302. Amendments Requiring Consent of Bondholders. If at any time the Issuer or the Company shall request the Trustee's consent to a proposed amendment, change or modification requiring bondholder approval under Section 1301, the Trustee, shall, at the expense of the requesting party, cause notice of such proposed amendment, change or modification to be mailed in the same manner as provided by Section 1202 hereof with respect to supplemental indentures. Such notice shall briefly set forth the nature of such proposed amendment, change or modification and shall state that copies of the instrument embodying the same are on file in the principal office of the Trustee for inspection by any interested bondholder. The Trustee shall not, however, be subject to any liability to any bondholder by reason of its failure to publish or mail such notice, and any such failure shall not affect the validity of such amendment, change or modification when consented to by the Trustee in the manner hereinabove provided.

Section 1303. Discretion of Trustee in Entering into Supplements and Amendments. In every case provided for in this Article XIII and Article XII, the Trustee shall not be obligated to execute any proposed supplements or amendments if the rights, obligations and interests of the Trustee, under this Indenture otherwise, would be thereby affected, and the Trustee shall not be under any responsibility or liability to the Issuer or to any Bondholder or to anyone whomsoever for its refusal in good faith to enter into any such supplement or amendment if such supplement or amendment is deemed by it to be contrary to the provisions of this Article XIII and Article XII. The Trustee shall be entitled to receive, and shall be fully protected in relying upon, an opinion of Bond Counsel as conclusive evidence that any such proposed supplement or amendment is authorized or permitted under this Indenture and complies with the provisions of the Indenture, and that it is proper for it, under the provisions of this Article XIII or Article XII, to join in the execution of such supplement or amendment.

## ARTICLE XIV

### MISCELLANEOUS

Section 1401. Consents of Bondholders. Any request, direction, objection or other instrument required by this Indenture to be signed and executed by the bondholders may be in any number of concurrent writings of similar tenor and may be signed or executed by such bondholders in person or by agent appointed in writing. Proof of the execution of any such request, direction, objection or other instrument or of the writing appointing any such agent and of the ownership of Bonds, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken by it under such request or other instrument, namely:

(a) The fact and date of the execution by any person of any such writing may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such writing acknowledged before him the execution thereof, or by an affidavit of any witness to such execution.

(b) The fact of ownership of Bonds and the amount or amounts, numbers and other identification of such Bonds, and the date of holding the same shall be proved by the registration books of the Issuer maintained by the Trustee as Bond Registrar or by such other manner as the Trustee deems sufficient.

Section 1402. Notices. Except as otherwise provided in this Indenture, all notices, certificates or other communications shall be sufficiently given and shall be deemed given when delivered by hand delivery or when the same has been mailed by registered or certified mail, postage prepaid, to the Issuer, the Company, and the Trustee. Notices, certificates or other communications shall be sent to the following addresses:

Issuer: City of Jonesboro, Arkansas  
300 S. Church St.  
Jonesboro, Arkansas 72401  
Attention: Mayor

Company: Nestlé Prepared Foods Company  
30003 Bainbridge Road  
Solon, Ohio 44139  
Attention: Legal Department

With a copy to:

Nestlé Prepared Foods Company  
1812 N Moore Street  
Arlington, VA 22209  
Attention: Tax Department - Elaine White

Trustee: The Bank of New York Mellon Trust Company, N.A.  
500 Ross Street, 12th Floor  
Pittsburgh, Pennsylvania 15262  
Attention: Corporate Trust

Any of the foregoing may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent.

Section 1403. Limitation of Rights. With the exception of rights herein expressly conferred, nothing expressed or mentioned in or to be implied from this Indenture, or the Bonds issued hereunder, is intended or shall be construed to give to any person or company other than the parties hereto, and the holders of the Bonds secured by this Indenture any legal or equitable rights, remedy or claim under or in respect to this Indenture or any covenants, conditions and provisions hereof being intended to be and being for the sole exclusive benefit of the parties hereto and the holders of the Bonds hereby secured as herein provided.

Section 1404. Severability. If any provisions of this Indenture shall be held or deemed to be or shall, in fact, be inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions or in all cases because it conflicts with any provisions or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstance, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever.

The invalidity of any one or more phrases, sentences, clauses or paragraphs in this Indenture contained shall not affect the remaining portions of this Indenture or any part thereof.

Section 1405. Applicable Provisions of Law. This Indenture shall be considered to have been executed in the State of Arkansas and it is the intention of the parties that the substantive law of the State of Arkansas govern as to all questions of interpretation, validity and effect.

Section 1406. Counterparts. This Indenture may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 1407. Successors and Assigns. All the covenants, stipulations, provisions, agreements, rights, remedies and claims of the parties hereto in this Indenture contained shall bind and inure to the benefit of their successors and assigns.

Section 1408. Captions. The captions or headings in this Indenture are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Indenture.

Section 1409. Bonds Owned by the Issuer or the Company. In determining whether bondholders of the requisite aggregate principal amount of the Bonds have concurred in any direction, consent or waiver under this Indenture, Bonds which are owned by the Issuer or the Company or by any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company (unless the Company or any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company shall own not less than 100% in aggregate principal amount of the Bonds then outstanding) shall be disregarded and deemed not to be outstanding for the purpose of any such determination, except that, for the purpose of determining whether the Trustee shall be protected in relying on any such direction, consent or waiver, only Bonds which the Trustee knows are so owned shall be so disregarded. Bonds so owned which have been pledged in good faith may be regarded as outstanding if the pledgee establishes to the satisfaction of the Trustee the pledgee's right so to act with respect to such Bonds and that the pledgee is not the Issuer or the Company or any person directly or indirectly controlling or controlled by or under direct or indirect common control with the Company. In case of a dispute as to such right, any decision by the Trustee taken upon the advice of counsel shall be full protection to the Trustee.

Section 1410. Instructions to Trustee by Electronic Means. The Trustee shall have the right to accept and act upon instructions, including funds transfer instructions ("Instructions") given pursuant to this Indenture and related documents and delivered using Electronic Means; provided, however, that the Issuer and/or the Company, as applicable, shall provide to the Trustee an incumbency certificate listing officers with the authority to provide such Instructions ("Authorized Officers") and containing specimen signatures of such Authorized Officers, which incumbency certificate shall be amended by the Issuer and/or the Company, as applicable, whenever a person is to be added or deleted from the listing. If the Issuer and/or the Company, as applicable, elects to give the Trustee Instructions using Electronic Means and the Trustee in its discretion elects to act upon such Instructions, the Trustee's understanding of such Instructions shall be deemed controlling. The Issuer and the Company understand and agree that the Trustee cannot determine the identity of the actual sender of such Instructions and that the Trustee shall conclusively presume that directions that purport to have been sent by an Authorized Officer listed on the incumbency certificate provided to the Trustee have been sent by such Authorized Officer. The Issuer and the Company shall be responsible for ensuring that only Authorized Officers transmit such Instructions to the Trustee and that the Issuer, the Company and all Authorized Officers are solely responsible to safeguard the use and confidentiality of applicable user and authorization codes, passwords and/or authentication keys upon receipt by the Issuer and/or the Company, as applicable. The Trustee shall not be liable for any

losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such Instructions notwithstanding such directions conflict or are inconsistent with a subsequent written instruction. The Issuer and the Company agree: (i) to assume all risks arising out of the use of Electronic Means to submit Instructions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized Instructions, and the risk of interception and misuse by third parties; (ii) that it is fully informed of the protections and risks associated with the various methods of transmitting Instructions to the Trustee and that there may be more secure methods of transmitting Instructions than the method(s) selected by the Issuer and/or the Company, as applicable; (iii) that the security procedures (if any) to be followed in connection with its transmission of Instructions provide to it a commercially reasonable degree of protection in light of its particular needs and circumstances; and (iv) to notify the Trustee immediately upon learning of any compromise or unauthorized use of the security procedures.

IN WITNESS WHEREOF, the Issuer has caused these presents to be signed in its name and behalf by its Mayor and its corporate seal to be hereunto affixed and attested by its City Clerk, and, to evidence its acceptance of the trust hereby created, the Trustee has caused these presents to be signed in its behalf by its duly authorized officer.

CITY OF JONESBORO, ARKANSAS

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, NATIONAL ASSOCIATION  
Trustee

By: \_\_\_\_\_  
\_\_\_\_\_  
Title

**ACKNOWLEDGMENT**

STATE OF ARKANSAS            )  
  )  
COUNTY OF CRAIGHEAD        )

On this \_\_\_\_ day of \_\_\_\_\_, 2021, before me, the undersigned Notary Public, duly commissioned, qualified and acting, within and for said County and State, appeared in person the within named Harold Copenhaver and April Leggett (being the person or persons authorized by said municipality to execute such instrument, stating their respective capacities in that behalf), to me personally well known (or satisfactorily proven to be such person), who stated that they were the Mayor and City Clerk of the City of Jonesboro, Arkansas, a municipality, and were duly authorized in their respective capacities to execute the foregoing instrument for and in the name and behalf of said municipality, and further stated and acknowledged that they had so signed, executed, and delivered said foregoing instrument for the consideration, uses and purposes therein mentioned and set forth.

IN TESTIMONY WHEREOF, I have hereunto set my hand and official seal this \_\_\_\_ day of \_\_\_\_\_, 2021.

\_\_\_\_\_  
Notary Public

My Commission expires:

\_\_\_\_\_

(SEAL)



**EXHIBIT A**

**Form of Initial Bond**

No. R-1

\$100,000,000

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
CITY OF JONESBORO, ARKANSAS  
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND  
(NESTLÉ PREPARED FOODS COMPANY PROJECT)  
SERIES 2021

Date of Bond: \_\_\_\_\_, 2021

Maturity Date: \_\_\_\_\_ 1, 2051

Interest Rate: 1.97% per annum

Registered Owner: NESTLÉ PREPARED FOODS COMPANY

Principal Amount: ONE HUNDRED MILLION DOLLARS  
(or the total principal amount outstanding as reflected by the  
Record of Advances and Principal Payments attached hereto)

KNOW ALL MEN BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, a municipality organized and existing under the laws of the State of Arkansas (the "Issuer"), for value received, promises to pay to the registered owner shown above, or registered assigns, but solely from the source and in the manner hereinafter set forth, the principal amount shown above and in like manner to pay interest on said amount from the date hereof shown above until payment of such principal amount has been made or duly provided for, at the rate per annum shown above, semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year commencing on \_\_\_\_\_ 1, 20\_\_, except as the provisions hereinafter set forth with respect to redemption of this Bond prior to maturity may become applicable hereto. The principal of this Bond is payable in lawful money of the United States of America upon the presentation and surrender hereof at the principal corporate trust office of The Bank of New York Mellon Trust Company, National Association, Pittsburgh, Pennsylvania, or its successor or successors, as Trustee (the "Trustee"), and interest on this Bond is payable in like money to the registered owner hereof by check or draft drawn upon the Trustee and mailed or, in certain circumstances described in the Indenture, by wire transfer to the person in whose name this Bond is registered at the close of business on the fifteenth day of the calendar month next preceding that in which such interest payment shall fall (the "Record Date"), at his address as it appears on the bond registration books of the Issuer kept by the Trustee.

This Bond is the single bond comprising a series of Bonds in the aggregate principal amount of not to exceed \$100,000,000 (the "Bonds"), issued for the purpose of financing the cost of acquiring, constructing and installing an industrial project within the boundaries of the Issuer (the "Project"), for use by Nestlé Prepared Foods Company, a Pennsylvania corporation (the "Company"), and paying the expenses of issuing the Bonds. The Bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of \_\_\_\_\_ 1, 2021 (the "Indenture"), duly executed and delivered by the Issuer to the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the Trustee and the registered owners of the Bonds, and the terms upon which the Bonds are issued and secured. The terms and conditions of the financing of the Project, the use of the proceeds of the Bonds by the Company for such purpose, and the payment of certain amounts thereunder, are contained a Lease Agreement dated as of \_\_\_\_\_ 1, 2021 (the "Lease Agreement"), by and between the Issuer and the Company.

The Bonds are issued pursuant to and in full compliance with the laws of the State of Arkansas, particularly Title 14, Chapter 164, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Act"), and pursuant to an Order of the Issuer, which authorized the execution and delivery of the Indenture. The Bonds and the interest thereon do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation.

The Bonds are not general obligations of the Issuer but are special obligations payable solely from revenues derived from the Lease Agreement. The Lease Agreement provide for lease payments by the Company in amounts sufficient to provide for the payment of the principal of and interest on the Bonds as due and payable. Provision has been made in the Lease Agreement for such payments to be paid directly to the Trustee and deposited in a special account of the Issuer designated "Taxable Industrial Development Revenue Bond Fund - Nestlé Prepared Foods Company Project," and such payments have been duly assigned to the Trustee for that purpose. All the rights and interest of the Issuer in and to the Lease Agreement (except for certain rights specified in the Indenture) have been assigned under the Indenture to the Trustee to secure the payment of the principal of and interest on the Bonds. In addition, the payment of the principal and interest has been unconditionally guaranteed by the Company pursuant to a Guaranty Agreement dated as of \_\_\_\_\_ 1, 2021, entered into between the Company and the Trustee.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of this Bond may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds are subject to redemption prior to maturity at the option of the Issuer, to be exercised solely as directed by the Company, in whole or in part at any time (and if in part, by lot or in such other manner as may be determined by the Trustee to be fair and equitable), at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date.

In the event any of the Bonds or portions thereof (which shall be \$100,000 or any integral multiple of \$5,000 in excess of \$100,000) are called for redemption, notice thereof shall be given by the Trustee by registered or certified mail to the registered owner of each such Bond addressed to such registered owner at his registered address, and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure or defect has occurred. Each notice shall identify the Bonds or portions thereof being called, and the date on which they shall be presented for payment. After the date specified in such call, the Bond or Bonds so called will cease to bear interest provided funds sufficient for their redemption have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

With respect to notice of redemption of the Bonds, unless moneys sufficient to pay the principal of and interest on the Bonds to be redeemed shall have been received by the Trustee prior to the giving of such notice, such notice shall state that said redemption shall be conditional upon the receipt of such moneys by the Trustee on or prior to the date fixed for such redemption. If such moneys shall not have been so received, such notice shall be of no force and effect, the Issuer shall not redeem such Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

This Bond may be transferred on the books of registration kept by the Trustee by the registered owner or by his duly authorized attorney upon surrender hereof, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney.

The Bonds are issuable as registered Bonds without coupons in denominations of \$100,000 or any integral multiple of \$5,000 in excess of \$100,000. Subject to the limitations and upon payment of the charges provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds do

exist, have happened and have been performed in due time, form and manner as required by law; that the indebtedness represented by the Bonds, together with all obligations of the Issuer, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal of and interest on the Bonds as the same become due and payable will be sufficient in amount for that purpose.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Jonesboro, Arkansas has caused this Bond to be executed by its Mayor and City Clerk, thereunto duly authorized (by their manual or facsimile signatures), and its corporate seal to be affixed or imprinted, all as of the date of this Bond shown above.

CITY OF JONESBORO, ARKANSAS

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in and issued under the provisions of the within mentioned Indenture.

Date of registration and authentication: \_\_\_\_\_

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, NATIONAL ASSOCIATION  
Trustee

By \_\_\_\_\_  
Authorized Signature

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, \_\_\_\_\_ ("Transferor"), hereby sells, assigns and transfers unto \_\_\_\_\_, the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ ("Transferee") as attorney to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Transferor

GUARANTEED BY:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or a trust company.



**EXHIBIT B**

**Form of Bond After Completion Date**

No. R- \_\_\_\_\_ \$ \_\_\_\_\_

UNITED STATES OF AMERICA  
STATE OF ARKANSAS  
CITY OF JONESBORO, ARKANSAS  
TAXABLE INDUSTRIAL DEVELOPMENT REVENUE BOND  
(NESTLÉ PREPARED FOODS COMPANY PROJECT)  
SERIES 2021

Date of Bond: \_\_\_\_\_, 2021 Maturity Date: \_\_\_\_\_ 1, 2051

Interest Rate: 1.97% per annum

Registered Owner: \_\_\_\_\_

Principal Amount: \_\_\_\_\_ DOLLARS

KNOW ALL MEN BY THESE PRESENTS:

That the City of Jonesboro, Arkansas, a municipality organized and existing under the laws of the State of Arkansas (the "Issuer"), for value received, promises to pay to the registered owner shown above, or registered assigns, but solely from the source and in the manner hereinafter set forth, the principal amount shown above and in like manner to pay interest on said amount until payment of such principal amount has been made or duly provided for, at the rate per annum shown above, semiannually on \_\_\_\_\_ 1 and \_\_\_\_\_ 1 of each year, from the \_\_\_\_\_ 1 or \_\_\_\_\_ 1 next preceding the date on which this Bond is authenticated unless this Bond is authenticated on an interest payment date, in which case it shall bear interest from such date, or unless this Bond is authenticated during the period from the Record Date (as hereinafter defined) to the next interest payment date, in which case it shall bear interest from such interest payment date, or unless at the time of authentication of this Bond interest is in default hereon, in which case it shall bear interest from the date to which interest has been paid, except as the provisions hereinafter set forth with respect to redemption of this Bond prior to maturity may become applicable hereto. The principal of this Bond is payable in lawful money of the United States of America upon the presentation and surrender hereof at the principal corporate trust office of The Bank of New York Mellon Trust Company, National Association, Pittsburgh, Pennsylvania, or its successor or successors, as Trustee (the "Trustee"), and interest on this Bond is payable in like money to the registered owner hereof by check or draft drawn upon the Trustee and mailed or, in certain circumstances described in the Indenture, by wire transfer to the person in whose name this Bond is registered at the close of business on the fifteenth day of the calendar month next preceding that in which such interest

payment shall fall (the "Record Date"), at his address as it appears on the bond registration books of the Issuer kept by the Trustee.

This Bond is one of a series of Bonds in the aggregate principal amount of \$ \_\_\_\_\_ (the "Bonds"), issued for the purpose of financing the cost of acquiring, constructing and installing an industrial project within the boundaries of the Issuer (the "Project"), for use by Nestlé Prepared Foods Company, a Pennsylvania corporation (the "Company"), and paying the expenses of issuing the Bonds. The Bonds are all issued under and are all equally and ratably secured and entitled to the protection given by a Trust Indenture dated as of \_\_\_\_\_ 1, 2021 (the "Indenture"), duly executed and delivered by the Issuer to the Trustee. Reference is hereby made to the Indenture and all indentures supplemental thereto for the provisions, among others, with respect to the nature and extent of the security, the rights, duties and obligations of the Issuer, the Trustee and the registered owners of the Bonds, and the terms upon which the Bonds are issued and secured. The terms and conditions of the financing of the Project, the use of the proceeds of the Bonds by the Company for such purpose, and the payment of certain amounts thereunder, are contained a Lease Agreement dated as of \_\_\_\_\_ 1, 2021 (the "Lease Agreement"), by and between the Issuer and the Company.

The Bonds are issued pursuant to and in full compliance with the laws of the State of Arkansas, particularly Title 14, Chapter 164, Subchapter 2 of the Arkansas Code of 1987 Annotated (the "Act"), and pursuant to an Order of the Issuer, which authorized the execution and delivery of the Indenture. The Bonds and the interest thereon do not constitute an indebtedness of the Issuer within the meaning of any constitutional or statutory limitation.

The Bonds are not general obligations of the Issuer but are special obligations payable solely from revenues derived from the Lease Agreement. The Lease Agreement provide for lease payments by the Company in amounts sufficient to provide for the payment of the principal of and interest on the Bonds as due and payable. Provision has been made in the Lease Agreement for such payments to be paid directly to the Trustee and deposited in a special account of the Issuer designated "Taxable Industrial Development Revenue Bond Fund - Nestlé Prepared Foods Company Project," and such payments have been duly assigned to the Trustee for that purpose. All the rights and interest of the Issuer in and to the Lease Agreement (except for certain rights specified in the Indenture) have been assigned under the Indenture to the Trustee to secure the payment of the principal of and interest on the Bonds. In addition, the payment of the principal and interest has been unconditionally guaranteed by the Company pursuant to a Guaranty Agreement dated as of \_\_\_\_\_ 1, 2021, entered into between the Company and the Trustee.

The owner of this Bond shall have no right to enforce the provisions of the Indenture or to institute action to enforce the covenants therein, or to take any action with respect to any event of default under the Indenture, or to institute, appear in and defend any suit or other proceeding with respect thereto, except as provided in the Indenture. In certain events, on the conditions, in the manner and with the effect set forth in the Indenture, the principal of this Bond may be declared and may become due and payable before the stated maturity thereof, together with accrued interest thereon.

Modifications or alterations of the Indenture, or of any indenture supplemental thereto, may be made only to the extent and in the circumstances permitted by the Indenture.

The Bonds are subject to redemption prior to maturity at the option of the Issuer, to be exercised solely as directed by the Company, in whole or in part at any time (and if in part, by lot or in such other manner as may be determined by the Trustee to be fair and equitable), at a redemption price equal to the principal amount being redeemed plus accrued interest to the redemption date.

In the event any of the Bonds or portions thereof (which shall be \$100,000 or any integral multiple of \$5,000 in excess of \$100,000) are called for redemption, notice thereof shall be given by the Trustee by registered or certified mail to the registered owner of each such Bond addressed to such registered owner at his registered address, and placed in the mails not less than thirty (30) nor more than sixty (60) days prior to the date fixed for redemption; provided, however, that failure to give such notice by mailing, or any defect therein, shall not affect the validity of the proceedings for the redemption of any Bond with respect to which no such failure or defect has occurred. Each notice shall identify the Bonds or portions thereof being called, and the date on which they shall be presented for payment. After the date specified in such call, the Bond or Bonds so called will cease to bear interest provided funds sufficient for their redemption have been deposited with the Trustee, and, except for the purpose of payment, shall no longer be protected by the Indenture and shall not be deemed to be outstanding under the provisions of the Indenture.

With respect to notice of redemption of the Bonds, unless moneys sufficient to pay the principal of and interest on the Bonds to be redeemed shall have been received by the Trustee prior to the giving of such notice, such notice shall state that said redemption shall be conditional upon the receipt of such moneys by the Trustee on or prior to the date fixed for such redemption. If such moneys shall not have been so received, such notice shall be of no force and effect, the Issuer shall not redeem such Bonds and the Trustee shall give notice, in the manner in which the notice of redemption was given, that such moneys were not so received.

This Bond may be transferred on the books of registration kept by the Trustee by the registered owner or by his duly authorized attorney upon surrender hereof, together with a written instrument of transfer duly executed by the registered owner or his duly authorized attorney.

The Bonds are issuable as registered Bonds without coupons in denominations of \$100,000 each, or any integral multiple of \$5,000 in excess of \$100,000. Subject to the limitations and upon payment of the charges provided in the Indenture, Bonds may be exchanged for a like aggregate principal amount of Bonds of other authorized denominations.

This Bond is issued with the intent that the laws of the State of Arkansas will govern its construction.

IT IS HEREBY CERTIFIED, RECITED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Bonds do exist, have happened and have been performed in due time, form and manner as required by law; that

the indebtedness represented by the Bonds, together with all obligations of the Issuer, does not exceed any constitutional or statutory limitation; and that the above referred to revenues pledged to the payment of the principal of and interest on the Bonds as the same become due and payable will be sufficient in amount for that purpose.

This Bond shall not be valid or become obligatory for any purpose or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon shall have been signed by the Trustee.

IN WITNESS WHEREOF, the City of Jonesboro, Arkansas has caused this Bond to be executed by its Mayor and City Clerk, thereunto duly authorized (by their manual or facsimile signatures), and its corporate seal to be affixed or imprinted, all as of the date of this Bond shown above.

CITY OF JONESBORO, ARKANSAS

By: \_\_\_\_\_  
Mayor

ATTEST:

\_\_\_\_\_  
City Clerk

(SEAL)

(Form of Certificate of Authentication)

CERTIFICATE OF AUTHENTICATION

This Bond is one of the Bonds of the issue described in and issued under the provisions of the within mentioned Indenture.

Date of registration and authentication: \_\_\_\_\_

THE BANK OF NEW YORK MELLON TRUST  
COMPANY, NATIONAL ASSOCIATION  
Trustee

By \_\_\_\_\_  
Authorized Signature

(Form of Assignment)

ASSIGNMENT

FOR VALUE RECEIVED, \_\_\_\_\_ ("Transferor"), hereby sells, assigns and transfers unto \_\_\_\_\_, the within Bond and all rights thereunder, and hereby irrevocably constitutes and appoints \_\_\_\_\_ ("Transferee") as attorney to transfer the within Bond on the books kept for registration thereof with full power of substitution in the premises.

DATE: \_\_\_\_\_, \_\_\_\_\_

\_\_\_\_\_  
Transferor

GUARANTEED BY:

\_\_\_\_\_  
NOTICE: Signature(s) must be guaranteed by a member firm of the New York Stock Exchange or a commercial bank or a trust company.

**EXHIBIT C**

**Form of Requisition**

REQUISITION NO. \_\_\_\_\_

DATE: \_\_\_\_\_

The Bank of New York Mellon Trust Company, National Association, as Trustee  
Pittsburgh, Pennsylvania

Re: City of Jonesboro, Arkansas Taxable Industrial Development  
Revenue Bond Construction Fund - Nestlé Prepared Foods  
Company Project

You are requested and authorized to make payment from the above account to:

\_\_\_\_\_

for: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

in the amount of \$ \_\_\_\_\_.

I hereby certify on behalf of Nestlé Prepared Foods Company (the "Company") that:

1. The disbursement is for a proper item of Project Costs.
2. The disbursement does not render inaccurate any of the representations with respect thereto contained in the Lease Agreement dated as of \_\_\_\_\_ 1, 2021, between City of Jonesboro, Arkansas and the Company.

CERTIFIED this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

NESTLÉ PREPARED FOODS COMPANY

By \_\_\_\_\_  
Company Representative