

# **ESTOPPEL AGREEMENT**

**This Estoppel Agreement (this "Estoppel")**, dated as of \_\_\_\_\_, 2008, is executed by Millard Refrigerated Services, Inc., a Georgia corporation ("Seller"), the Arkansas Economic Development Commission (formerly the Arkansas Department of Economic Development) ("Department"), Jonesboro Industrial Development Corporation ("Development"), the City of Jonesboro, Arkansas ("City"), Craighead County, Arkansas ("County") and City Water & Light Plant of the City of Jonesboro, Arkansas ("Utility"), in favor of Nestle Prepared Foods Company, a Pennsylvania corporation ("Buyer").

## **PREAMBLE**

City has previously entered into a Trust Indenture, dated June 1, 2002 (the "Indenture"), by and between City and Bank One Trust Company, N.A. ("Original Trustee"), a Lease Agreement, dated June 1, 2002, by and between City and Millard Acquisitions-Jonesboro, Inc., as assigned to Seller by that certain Assignment and Assumption of Ground Leases, dated November 15, 2002 and as amended by that First Amendment of Lease, dated \_\_\_\_\_, 2008, by and between City and Seller (collectively, the "Lease") and has issued its Taxable Industrial Development Revenue Bonds (Millard Refrigerated Services, Inc. Project), Series 2002 (the "Bonds"), which were purchased by Seller, to finance a project leased to Seller pursuant to the Lease (the "Project").

City, County, Department, Development and other governmental officials executed a Payment in Lieu of Taxes Agreement, dated March 7, 2001, attached hereto as Exhibit A (the "PILOT Agreement") and delivered the PILOT Agreement to Seller.

City, County, Department, Development, Utility and Seller executed a Development Agreement, dated as of July 25, 2001 (the "Development Agreement") pursuant to which the Seller was promised certain incentives to locate the Project in the City.

Seller now desires to transfer the Project to the Buyer and to assign to Buyer all of its right, title and interest in the Lease, the Bonds and PILOT Agreement.

NOW THEREFORE, City, County, Department, Development, Utility and Seller hereby certify to Buyer as follows:

1. City, County, Department, Development and Utility each hereby consent to the transfer of the Project to Buyer.

2. City, County, Department, Development and Seller represent, confirm and agree that (i) a true and complete copy of the PILOT Agreement is attached hereto as Exhibit A, (ii) the PILOT Agreement is unmodified and remains in full force and effect, (iii) \$\_\_\_\_ and \$\_\_\_\_ have been paid in 2007 and 2008 by Seller in PILOT payments, (iv) Seller has heretofore complied with all of the terms and provisions of the PILOT Agreement, (v) no default or event for which the giving of notice or the passage of time would constitute a default under the PILOT Agreement has occurred and (vi) Buyer will continue to be entitled to the continuing exemptions

from the payment of property taxes due under the provisions of Arkansas law for the duration of the time provided for in the PILOT Agreement on the same terms and conditions for which Seller would have qualified had Seller remained the lessee of the Project.

3. City, County, Department, Development, Utility and Seller hereby represent, confirm and agree that all obligations under the Development Agreement have been performed and satisfied and the Development Agreement is of no further force or effect.

4. This Estoppel may be executed in multiple counterparts, each of which shall be deemed an original. A telecopy signature will be deemed to be an original signature. The failure of any party to execute this Estoppel shall not affect the binding nature of this Estoppel on any party that does execute this Estoppel or the certifications, representations and agreements made by any party that does execute this Estoppel.

[SIGNATURE PAGE FOLLOWS]

IN WITNESS WHEREOF, the undersigned have caused this Estoppel to be executed and delivered by their duly authorized representatives. The persons executing this certificate on behalf of the entities below represent and certify that they are duly authorized to execute this Estoppel.

Millard Refrigerated Services, Inc.

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

Name:\_\_\_\_\_

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

City of Jonesboro, Arkansas

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

Name:\_\_\_\_\_

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

Arkansas Economic Development Commission

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

Name:\_\_\_\_\_

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

Craighead County, Arkansas

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

Name:\_\_\_\_\_

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

Jonesboro Industrial Development Corporation

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

Name:\_\_\_\_\_

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

City Water & Light Plant of the City of Jonesboro,  
Arkansas

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

Name:\_\_\_\_\_

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