

AGREEMENT FOR PAYMENT IN LIEU OF ANNEXATION

THIS AGREEMENT FOR PAYMENT IN LIEU OF ANNEXATION (the "Agreement") is made and entered into as of November 1, 2023 by and among the City of Crete, a municipality incorporated and existing under the laws of the state of Nebraska ("City of Crete"), and Nestlé Purina PetCare Company, a Missouri corporation ("Nestlé Purina").

RECITALS:

- A. Nestlé Purina owns property in Saline County, Nebraska that is situated outside the present corporate limits of City of Crete, but abuts to property within the corporate limits of the City of Crete (such Nestlé Purina owned property being depicted on Exhibit "A" attached hereto and incorporated herein and such real estate shall be referred to herein as the "Nestlé Purina Subject Property").
- B. City of Crete is currently evaluating whether to annex the Nestlé Purina Subject Property.
- C. City of Crete and Nestlé Purina desire to agree to an alternative to annexation that serves the best interests of City of Crete and Nestlé Purina.
- D. City of Crete and Nestlé Purina agree that Nestlé Purina will make a one-time payment to the City of Crete in the amount described in Section 2 of this Agreement, and the City of Crete shall not annex the Nestlé Purina Subject Property for a period of fifteen (15) years beginning on the date hereof and ending September 1, 2038.

NOW THEREFORE IN CONSIDERATION of the mutual promises set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City of Crete and Nestlé Purina hereby agree as follows:

1. Agreement Not to Annex Nestlé Purina Subject Property: City of Crete hereby agrees that during the period beginning on the date hereof and ending on September 1, 2038 (the "Term"), City of Crete shall not annex or permit the annexation of the Nestlé Purina Subject Property into the city boundaries of the City of Crete and that City of Crete will not undertake any steps or measures preliminary to the annexation of the Nestlé Purina Subject Property.

2. Payment by Nestlé Purina; City of Crete Paving of Road Adjoining Nestlé Purina Subject Property:

(a) Nestlé Purina hereby agrees that it shall pay the City of Crete a one-time payment in the amount Four Hundred and Two Thousand Four Hundred Seventy-Nine Dollars (\$402,479) (the "Payment") to pave Boswell Ave and County Road 2300 from the BNSF railway North of Highway 33 to E. 29th St as described and shown in Exhibits "B" and "C", which are attached hereto and incorporated by this reference. The Payment shall be made within thirty (30) days of signing this agreement. In the event that certified costs are significantly higher than the estimated sum, the City of Crete reserves the right to invoice Nestlé Purina for one-third (1/3) of the additional participating costs, in an amount not to exceed ten percent (10%) of the Payment outlined above.

(b) On or prior to December 31, 2024, the City of Crete and Saline County, shall pave the road adjoining the Nestlé Purina Subject Property.

3. Nestlé Purina Subject Property Not Subject to City of Crete Ordinances: During the Term hereof, the Nestlé Purina Subject Property and personal property at such site shall not be within the corporate limits of

the City of City of Crete and it (and Nestlé Purina as the owner of it) shall not be subject to any assessments or taxes levied by City of Crete or to ordinances and regulations of City of Crete, except such ordinances and regulations of City of Crete, which by their terms are applicable to properties located outside the corporate limits of the City of City of Crete and then only to the extent that such ordinances and regulations may permissibly apply extraterritorially.

4. Conditions Precedent of City of Crete: The following shall be conditions precedent to Nestlé Purina's obligations under this Agreement and if all conditions precedent have not been fulfilled or waived by Nestlé Purina prior to May 31, 2024, Nestlé Purina at its option and in its sole discretion, may terminate this Agreement effective upon written notice to City of Crete: (a) the City Council of City of Crete by resolution duly adopted shall have approved the execution and performance hereof by City of Crete and a copy of such resolution shall have been provided to Nestlé Purina; and (b) the City of Crete has duly executed this Agreement.

5. Entire Agreement; No Implied Agreement: This this Agreement constitutes the entire agreement between City of Crete and Nestlé Purina with respect to the subject matter hereof and all prior negotiations, understandings, and arrangements are merged herein and there are no other terms and conditions hereof. Nothing contained herein shall impose upon either City of Crete or Nestlé Purina any implied obligations or duties of any nature or kind.

6. Successors and Assigns: This Agreement shall be binding upon and shall inure to the benefit of the successors and assigns of City of Crete and Nestlé Purina. Specifically, City of Crete and Nestlé Purina agree that this Agreement shall run with the Nestlé Purina Subject Property and all portions thereof and that it shall inure to the benefit of and binding upon all subsequent owners of the Nestlé Purina Subject Property or any portion thereof.

7. Governing Law: This Agreement shall be governed in all respects by the laws of the State of Nebraska, without regard to its conflicts of laws principles.

8. Notices: Any notices under this Agreement shall be sent via U.S. First Class Mail or hand delivery to the following addresses:

If to Nestlé Purina:

Nestlé Purina PetCare Company
Attn: Factory Manager
2305 E. Highway 33
Crete, NE 68333

With a copy to:

Nestlé Purina PetCare Company
Attn: General Counsel
One Checkerboard Square
St. Louis, MO 63164

If to City of City of Crete:

City of Crete
243 E. 13th Street
Crete, NE 68333
Attn: Tom Ourada

[Signature Page Follows]

Authorized representatives of the parties hereto have executed this Agreement as of the date first written above.

City of Crete

Nestlé Purina PetCare Company

By:_____

By:_____

Name:_____

Name:_____

Title:_____

Title:_____

Exhibit B

Public ROW & Permanent Easement Description for Boswell Ave., in Saline County, NE

Referring to the NE Corner of Sec 27-T8N-R4E, thence along an assumed bearing of N01°43'11"W along the east section line of the SE ¼ of Sec 22-T8N-R4E, and all bearings contained herein are relative thereto, a distance of 45.83 feet to the point of beginning; thence N86°28'04"E a distance of 33.02 feet; thence S01°43'11"E a distance of 13.70 feet; thence N87°59'11"E a distance of 16.71 feet; thence S02°13'04"E a distance of 1354.74 feet; thence S02°13'31"E a distance of 962.53 feet to the north right-of-way line of the BNSF Railroad; thence S45°29'19"W a distance of 31.91 feet along the north right-of-way line of the BNSF Railroad to the east edge of the new concrete paving; thence S02°02'11"E a distance of 129.05 feet to the south edge of the new concrete paving; thence S45°26'04"W a distance of 43.29 feet to the west edge of the new concrete paving; thence N01°56'08"W a distance of 219.97 feet to the north right-of-way line of the BNSF Railroad; thence S45°22'37"W a distance of 39.80 feet along the north right-of-way line of the BNSF Railroad; thence N01°56'51"W a distance of 272.58 feet; thence N88°03'09"E a distance of 15.00 feet to the existing street right-of-way; thence N01°56'51"W a distance of 332.00 feet; thence N01°53'48"W a distance of 68.00 feet; thence N01°59'14"W a distance of 276.16 feet; thence S88°13'49"W a distance of 30.16 feet; thence N02°13'04"W a distance of 1322.11 feet; thence N87°46'56"E a distance of 12.00 feet; thence N01°43'11"W a distance of 45.07 feet; thence N86°28'04"E a distance of 33.02 feet to the point of beginning, containing 4.65 acres, more or less, of right-of-way and permanent easement, of which approximately 0.10 acres, more or less, is permanent public easement from the BNSF Railroad.