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WATER & RESOURCE RECOVERY FACILITY

MEMORANDUM

To: Greg Jenkins, Interim City Administrator

CC: Nancy Lueck, Finance Director
Cinda Hilger, Secretary

From: Jon Koch, WRRF Director

Date: March 27, 2020

Re: Beneficial Use Agreement

INTRODUCTION: Nestle Purina PetCare Company of Davenport, IA, has submitted a Beneficial Use Agreement to begin delivery of packaged and loose organic material to the Muscatine Organics Recycling Center (MORC). The agreement has been vetted and approved by the City's attorney for approval.

BACKGROUND: City staff has been working with Nestle Purina Davenport for several years in anticipation of the new MORC. They have an aggressive zero waste program that fits well with the operation of the recently installed depackaging machine in the old Recycling Center. There are several requirements of the Agreement that the City is already doing so no change in operation is mandated by this agreement. They will pay a tipping fee to the City for this service for capital cost recovery and on-going new revenue. This material is highly suited to anaerobic digestion and gas production for future City revenue generation.

RECOMMENDATION/RATIONALE: City staff recommends approval of the Beneficial Use Agreement between Nestle Purina PetCare Company in Davenport, IA, and the City of Muscatine to receive solid waste organic material at the MORC for addition to the City anaerobic digesters.

BACKGROUND: Beneficial Use Agreement

BENEFICIAL USE AGREEMENT

This BENEFICIAL USE AGREEMENT (“Agreement”) is entered into as of **17 March, 2020**, by and between Nestlé Purina PetCare Company, a Missouri corporation, having its principal place of business at One Checkerboard Square, St. Louis, MO 63164 (hereinafter “Purina”), and **City of Muscatine, a municipal government agency located in the State of Iowa**, having its principal place of business at **215 Sycamore Street, Muscatine, Iowa 52761** (hereinafter “Company”).

RECITALS

WHEREAS, Purina desires to transport and beneficially use certain off specification or other process residual materials from its **Davenport, Iowa** facility located at **607 Schmidt Road, Davenport IA 52802**; and

WHEREAS, Company has the permits, licenses, expertise, and equipment necessary to provide such service.

NOW, THEREFORE, in consideration of the promises and mutual covenants contained herein, Purina and Company hereby agree as follows:

1. Beneficial Use Materials.

During the term of this Agreement, Purina will provide to Company certain of Purina’s beneficial use materials (“materials”) from its facility identified above. Such beneficial use materials, their composition, physical characteristics, and estimated volume are described in Exhibit “A.” Purina is under no obligation to deal exclusively with Company with respect to its beneficial use material transportation and treatment activities. Company acknowledges that the beneficial use material, as identified in Exhibit A, may be a pet food product or ingredient, and as such could contain protein derived from mammals. In addition, Company acknowledges, that such material may not have been processed through a pathogen reduction step prior to being provided to Company. The Company specifically warrants that such pet food and/or pet ingredient beneficial use materials will not be allowed to come into contact with or be fed to ruminant animals (e.g., hooved, cud-chewing mammals such as cattle (bovines), sheep (ovines), goats (caprines), or deer and elk (cervines). Company understands and acknowledges that the feeding of certain mammalian materials to ruminants is specifically prohibited by 21 CFR 589.2000 et seq.

2. Company Services.

Company agrees to provide Purina those services as set forth in Exhibit “B,” attached hereto and incorporated herein by reference, or alternatively, on any acceptance letter signed by both parties attached hereto and incorporated herein by reference.

The following shall apply if selected below:

- Composting: Company is not authorized to recycle, reclaim, recover, sell, distribute, or use the beneficial use materials, their components, or residues in any way other than for a compost product processed in accordance with the requirements set forth herein and in Exhibit “C.1” attached hereto and incorporated herein by this reference. Company agrees that it will not allow any compost product made from Purina materials or liquids or residues generated from composting of Purina materials to be applied to land used to graze ruminant animals, used as bedding material for ruminant animals, or used in any other way that brings it into contact with ruminant animals. Company further agrees that it will not allow crop lands or grasslands to which Purina materials have been applied to be used for the grazing of ruminant animals. If this option is not selected, then Exhibit “C.1” shall not apply to this Agreement.

- Land Application:** Company is not authorized to recycle, reclaim, recover, sell, distribute, or use the beneficial use materials, their components, or residues in any way other than for a land application of solid or liquid materials under a fertilizer license meeting the requirements set herein and in Exhibit “C.2” attached hereto and incorporated herein by this reference. Company agrees that liquids will be land applied solely through subsurface injection. Company further agrees that it will not allow crop lands or grasslands to which Purina materials have been applied to be used for the grazing of ruminant animals. If this option is not selected, then Exhibit “C.2” shall not apply to this Agreement.
- Anaerobic Digestion:** Company is not authorized to recycle, reclaim, recover, sell, distribute, or use the beneficial use materials, their components, or residues in any way other than at an anaerobic digestion facility meeting the requirements set herein and in Exhibit “C.3” attached hereto and incorporated herein by this reference. Company must identify the applicable treatment step for their process residuals, identify and agree to the requirements stipulated in this Agreement for and treatment technologies identified in this Section. If this option is not selected, then Exhibit “C.3” shall not apply to this Agreement.
- Incineration:** Company is not authorized to recycle, reclaim, recover, sell, distribute, or use the beneficial use materials, their components, or residues in any way other than at an incineration facility meeting the requirements set herein and in Exhibit “C.4” attached hereto and incorporated herein by this reference. If this option is not selected, then Exhibit “C.4” shall not apply to this Agreement.
- Gasification:** Company is not authorized to recycle, reclaim, recover, sell, distribute, or use the beneficial use materials, their components, or residues in any way other than at a gasification facility meeting the requirements set herein and in Exhibit “C.5” attached hereto and incorporated herein by this reference. If this option is not selected, then Exhibit “C.5” shall not apply to this Agreement.

3. Fees, Billing, and Records.

For those services provided by Company, Purina will pay Company a fee as set forth in the fee schedule included in Exhibit “B.” Company shall submit invoices to Purina which shall be paid not later than net thirty (30) days from date of receipt.

Company shall maintain and retain for the period required by law complete and accurate records of all the services provided by Company under this Agreement; and Purina shall have the right, at any reasonable time, to inspect and audit those records by authorized representatives of its own or of any firm selected by it. The records to be maintained and retained under this Agreement by Company shall include, without limitation: (i) documentation as required by law; (ii) trip tickets or other documentation as required by this Agreement; and (iii) all records relating to spills, clean-up, enforcement actions or other proceedings which arise from the services provided to Purina by Company hereunder. Notwithstanding the foregoing, Company is not required to disclose to Purina or permit Purina to examine Company’s proprietary or confidential information.

4. Term and Termination.

This Agreement shall commence on the date set forth above and shall continue in effect until terminated by either party, with or without cause, upon thirty (30) days prior written notice to the other party. Termination as herein provided shall be in addition to, and not in lieu of, a party’s right to cancel for breach.

5. Beneficial Use Processing Facilities.

Company will pick up, transport, and process (or otherwise manage, if authorized under Exhibit “B”) Purina’s materials only at one or more of the facilities (“Facility” or “Facilities”) identified in Exhibit “D,” and which are licensed or permitted by governmental authorities to receive and manage/treat such materials.

6. Transfer of Materials and Title.

Purina’s materials will be transferred to Company at the place, time, frequencies, and quantities set forth in Exhibit “B” or in the acceptance letter covering such materials.

At the time Company takes possession of, and removes, Purina’s materials from the place of transfer, or at the time Company accepts delivery of the materials at the designated Facility, whichever circumstance is applicable; title, risk of loss, and all other incidents of ownership of the materials shall be transferred from Purina and vested in Company.

In the event the materials are discovered to be non-conforming, Company may revoke its acceptance of the materials. A justified revocation of acceptance shall operate to revert title, risk of loss, and all other incidents of ownership in Purina at the time revocation is communicated to Purina. Materials shall be considered non-conforming, for purposes of this Agreement, if: (i) they are not materially in accordance with the description in Exhibit “A”; or (ii) if they have constituents or components not identified in the description in Exhibit “A” which materially increase the nature or extent of the hazard and risk undertaken by Company in agreeing to handle, load, transport, store, treat, or process the materials.

If Purina’s materials are discovered by Company to be non-conforming after coming into Company’s possession, they shall be returned to Purina by Company within a reasonable time, not to exceed seven (7) days, after notice of revocation of acceptance has been communicated to Purina, unless within such time the parties agree to some alternative lawful manner of disposition of the materials. Purina shall pay Company its reasonable expenses and charges for handling, loading, preparing, transporting, storing, and caring for any non-conforming materials returned to Purina under this paragraph.

7. Vehicles and Containers.

Each of Company’s material transportation vehicles and containers shall comply with all applicable requirements and standards established by federal, state, and local authorities including any registration, placarding, marking, and labeling required by the Federal Department of Transportation, United States Dept. of Agriculture, and the federal Food, Drug and Cosmetic Act, including 21 CFR §589.2000, as amended from time to time, if applicable. **(21 CFR §589.2000 ET SEQ. PROHIBITS CERTAIN MAMMALIAN MATERIALS FROM BEING FED TO CATTLE OR OTHER RUMINANTS.)**

While engaged in services under this Agreement, the operators of Company's vehicles shall remain with such vehicles during any bulk filling and unloading operations.

Reusable containers supplied by Company shall be designed or equipped to prevent spillage or leakage during on-site storage, collection, and transport.

Company shall supply containers and trucks which have been thoroughly cleaned of any foreign materials that could contaminate the materials generated by Purina which is to be transported and processed under this Agreement.

Purina shall have the right: (i) to inspect and test, at its own expense, transportation vehicles or vessels, and containers provided by Company, and (ii) to inspect the handling, loading, or transportation operations conducted by Company in the performance of this Agreement.

8. Damage and Spillage.

Any damage to equipment or containers, or spillage of materials as a result of the act or omission of Company, shall be corrected and cleaned-up by Company in accordance with all applicable governmental requirements. Company shall be responsible for and will indemnify and hold Purina harmless from any fines, penalties, expenses, or other damages which arise from such occurrences.

9. Work on Purina's Premises.

Company, its employees, and subcontractors shall comply with Purina's safety procedures while on Purina's premises.

10. Company Representations and Warranties.

Company represents and warrants that: (i) it is generally engaged in the activities contracted for under this Agreement and has developed the requisite expertise to perform the services contracted for; (ii) it will perform the services contracted for in a safe and workmanlike manner; (iii) it understands the known hazards which are presented to persons, property, and the environment in the handling, transportation, storage, treatment, or processing of the described materials; (iv) it will perform the services under this Agreement in full compliance with all federal, state, and local governmental laws, regulations, and orders; (v) there are no outstanding enforcement actions, civil actions, or criminal proceedings against Company for alleged environmental harm except those listed on Exhibit "E" herein; (vi) Company's vehicles and the designated Facilities are licensed and permitted to carry out the activities described herein and are in compliance with all permit conditions and limitations; and (vii) in the event said vehicles or Facilities lose their permitted status hereafter during the term of this Agreement, Company will promptly notify Purina of such loss of permitted status, and in such event, Purina, at its sole option, may immediately terminate this Agreement. Further, Company warrants and guarantees on an on-going basis that it has carefully reviewed and understood, and will at all times fully comply with, the Nestlé Supplier Code (latest version as published on www.nestle.com/suppliers). Company acknowledges and agrees that it is committed not to do anything by action or by omission that could be in breach of the Nestlé Supplier Code.

11. Purina Warranties.

Purina represents and warrants to Company that: (i) the description of, and specifications pertaining to, its materials described in Exhibit "A" are and at all times will be true and correct in all material respects; (ii) materials tendered to Company will, at all times, materially conform to the description and specifications contained in Exhibit "A"; (iii) Purina is under no legal restraint which prohibits the transfer or possession of such materials to Company; and (iv) Purina will provide Company a safe work environment for any work on premises owned or controlled by Purina.

12. Indemnification.

Company agrees to indemnify, save harmless, and defend Purina, its affiliates, their directors, officers, agents, and employees from and against any and all liabilities, losses, damages, claims, demands, actions, suits, fines, penalties, forfeitures, and other costs and expenses incident thereto, including costs of defense, settlement, and reasonable attorneys' fees, (collectively, the "Liabilities"), which it may hereafter incur, become responsible for, or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations, or orders to the extent caused by: (i) any act or omission of Company or Company's agents, employees, subcontractors, or anyone directly or indirectly employed or retained by Company in the performance of this Agreement; or (ii) Company's breach of any warranty or covenant in this Agreement.

Purina agrees to indemnify, save harmless, and defend Company, its directors, officers, agents, and employees from and against any and all Liabilities, which it may hereafter incur, become responsible for,

or pay out as a result of death or bodily injury to any person, destruction or damage to any property, contamination of or adverse effects on the environment, or any violation of governmental laws, regulations, or orders to the extent caused by: (i) any act or omission of Purina, its agents, employees, or subcontractors in the performance of this Agreement; or (ii) Purina's breach of any warranty or covenant in this Agreement.

13. Insurance.

At all times during the term of this Agreement, Company shall procure and maintain, at its sole cost and expense, the following insurance coverages from insurance companies acceptable to Purina covering activities performed under, and obligations undertaken in, this Agreement:

(i) Workers' Compensation, Occupational, Disability Benefit, and similar employee benefit insurance for each of its employees in the amounts required under the laws of the state(s) in which the Agreement will be performed, as well as Employer's Liability insurance in an amount of not less than \$1,000,000 per accident per employee;

(ii) Commercial General Liability insurance, with products and completed operations, pollution, and Broad Form Contractual Liability insurance coverage endorsements thereon written on an occurrence basis with a minimum combined single limit of \$5,000,000 per occurrence for bodily injury, including death and property damage;

(iii) Commercial Automobile Liability insurance, with a minimum combined single limit of \$2,000,000 per occurrence for bodily injury and property damage, including pollution, caused by any vehicle owned, hired, or otherwise used by Company or its employees, agents, or subcontractors in connection with the services to be performed hereunder; and

(iv) Pollution Legal Liability insurance on all hazardous waste recycling/disposal facilities identified in Exhibit D, written on an occurrence basis with a minimum combined single limit of \$5,000,000 per occurrence for both on-site and off-site third party bodily injury and property damage.

Applicable only to services to be performed by Company under this Agreement, Company shall name Purina, its subsidiaries and its affiliates as an additional insured on Company's Commercial General Liability, and Commercial Automobile Liability insurance policies. Company shall furnish to Purina certificates of insurance, and a copy of each additional insured endorsement evidencing such coverages prior to performing any services under this Agreement. These certificates and endorsements are to be attached hereto as Exhibit "F." The words "endeavor to" and "but failure to mail such notice shall impose no obligation or liability of any kind upon the Company, its agents, or representatives" must be deleted from the cancellation clause shown on these certificates. With respect to Company's negligence, this coverage shall be primary and non-contributory with any insurance coverage Purina may have. In the event that Company receives a notice of cancellation or material change on any of the coverages described herein, Company shall immediately notify Purina in writing and undertake, using its best efforts, to procure replacement coverage(s). Company shall be responsible for ensuring that all of its subcontractors performing services hereunder carry insurance of similar types, with similar limits of coverage, and name Purina, its subsidiaries and its affiliates as additional insureds under appropriate policies, as required of Company. Company shall provide at least thirty (30) days' prior written notice to Purina of any cancellation or material modification to the foregoing insurance coverages.

Company represents and warrants that Company and its subcontractors will be in compliance with the foregoing insurance requirements at all times during their performance of services hereunder.

14. Confidentiality.

Company acknowledges that in the course of providing the services hereunder, it may be exposed to certain confidential and proprietary information of Purina or its affiliated companies. Company agrees to hold in strict confidence all such information. Company further agrees that Company: (i) shall not use such information or data other than for the purposes of this Agreement; (ii) will take all reasonable steps to restrict the disclosure of such information or data within its own organization to those persons who are directly concerned therewith and who have been informed of Company's obligations hereunder; and (iii) shall not disclose such information or data to any third party without the prior written consent of Purina.

Company's obligation under this paragraph shall survive the expiration or termination of this Agreement, but shall not apply to information which: (i) was known to Company prior to any disclosure by Purina, as evidenced by suitable written documentation; (ii) is or shall become public information through no fault of Company; or (iii) is received by Company from a third party having no confidentiality obligation to Purina.

In the event that Company is requested or required by law, rule, regulation, court order or in any regulatory, judicial or governmental process to disclose any Purina confidential information, Company hereby agrees to notify Purina of the request or requirement immediately and to reasonably assist Purina in obtaining a protective order or any other reasonable measure which Purina deems necessary to protect the confidentiality of such confidential information. In any event, should Company be required to provide any confidential information to the appropriate requesting authority, Company hereby agrees to take reasonable steps to ensure that such confidential information is afforded confidential treatment.

Company shall also treat as confidential and shall not disclose to others, except as required by law, information relating to the composition of the materials or the quantity of materials delivered to it by Purina.

The obligations of this Section 14 shall survive expiration or termination of this Agreement.

15. Independent Contractor Status and Use of Subcontractors.

Company shall perform the services hereunder as an independent contractor and is not, and shall not be deemed as, an agent, employee, or representative of Purina. Company has no authority to assume or create any commitment or obligation on behalf of or to bind Purina in any respect whatsoever and shall not represent that it has such authority or otherwise hold itself out as having such authority.

Upon the prior written consent of Purina, Company may use subcontractors to perform services under this Agreement. Any such subcontractor used by Company shall not be or act as an agent, employee, or representative of Purina. Any such subcontractor used by Company shall be qualified and licensed to perform any work or services in the same fashion as Company under this Agreement. Company is solely responsible for ensuring that all of its contractors, subcontractors, agents, and/or employees abide at all times by the terms of this Agreement.

16. Inspections.

Purina shall have the right to inspect and obtain copies of all processing records, written licenses, permits, or approvals issued by any governmental entity or agency to Company or its subcontractors which are relevant to the performance of this Agreement; to inspect and test, at its own expense, transportation vehicles or vessels, containers, or Facilities utilized under this Agreement; and to inspect the handling, loading, transportation, storage, treatment, recycling, or processing operations conducted by Company in the performance of this Agreement.

17. Material Information Updates.

Upon written request of Company, Purina shall provide to Company one or more of the following: (i) a description of the materials or a written assurance that any previously supplied description remains true and accurate, or (ii) a representative sample of the materials.

18. Notices.

All notices to be given under this Agreement shall be in writing and addressed to the recipient as set forth below:

Purina: Nestlé Purina PetCare Company
Attn: Dwight Daniel
607 Schmidt Road
Davenport, Iowa 52802

With a copy to: Nestlé Purina PetCare Company
One Checkerboard Square
St. Louis, Missouri 63164
Attn.: Legal Department

Company: City of Muscatine
215 Sycamore Street
Muscatine, Iowa 52761

All notices shall be deemed effectively given:

- (i) when delivered, if delivered personally or by couriered mail service (e.g. Federal Express or DHL);
- (ii) three days after such notice has been deposited in the United States mail postage prepaid, if mailed certified or registered U.S. mail, return receipt requested; or
- (iii) when received by the party for which notice is intended if given in any other manner.

19. Force Majeure.

Neither party hereto shall be liable to the other for its failure to perform under this Agreement when such failure is caused by strikes, accidents, acts of God, fire, war, flood, governmental restrictions, or any other cause beyond the control of the party charged with performance; provided that the party so unable to perform shall promptly advise the other party of the extent of its inability to perform. Any suspension of performance by reason of this paragraph shall be limited to the period during which such cause of failure exists.

20. Prohibition against Assignment and Delegation.

Except as otherwise provided in this Agreement, Company may not assign, transfer, or delegate any of its obligations or duties under this Agreement without the prior express written consent of Purina. Notwithstanding the receipt of prior written consent, any assignment, transfer, or delegation shall not operate to relieve Company of its obligations or duties hereunder.

21. Attorneys' Fees.

If any litigation is commenced between Company and Purina concerning this Agreement or their respective rights, duties, and obligations hereunder, the party prevailing in such litigation shall be entitled to its reasonable attorneys' fees and its court costs and expenses of litigation in addition to such other relief which may be granted.

22. Nonwaiver.

No provision of this Agreement shall be waived, by conduct or otherwise, except in writing signed by both parties. No assent or waiver, whether expressed or implied, of any breach of any one or more of the covenants, conditions, or provisions set forth in this Agreement shall be deemed to be a waiver of any subsequent breach of the same or any other covenant, condition, or provision hereof.

23. Successors.

This Agreement shall be binding on and shall inure to the benefit of the parties hereto and their respective assigns, agents, representatives, heirs, and successors. However, nothing herein shall be deemed to permit an assignment or delegation by Company in contravention of Paragraphs 15 or 20, above.

24. Applicable Law.

The validity of this Agreement and of any of its terms or provisions, as well as the rights and duties of the parties hereunder, shall be governed and construed in accordance with the laws of the state wherein the Purina facility is located without regard to the conflict of laws provisions thereof.

25. Survival Clause.

The provisions of paragraphs 10, 11, 12, and 14 shall survive the expiration, delegation, assignment, or termination of this Agreement.

26. Severability.

If any provision of this Agreement shall be adjudged invalid by any court, the remaining provisions of this Agreement shall remain valid and enforced to the full extent permitted by law.

27. Paragraph Headings.

The paragraph headings appearing herein have been inserted for convenience and shall not be deemed to affect the meaning or construction of any of the terms or provisions hereof. The language of this Agreement shall be construed according to its fair meaning and not strictly for or against Purina or Company, irrespective of which party may have prepared the Agreement.

28. Integrated Agreement; Counterparts.

This Agreement, including all Exhibits attached hereto, contains the entire understanding and agreement between the parties, sets forth all of the rights and duties of the parties with respect to the subject matter hereof, and replaces and supersedes all prior agreements or understandings, whether written or oral relating thereto. No modifications of this Agreement or of any of its terms shall be effective unless in writing and signed by the duly authorized representatives of the parties. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. A facsimile copy of an executed counterpart or a copy scanned into a PDF format of an executed counterpart shall be valid and have the same force and effect as an original.

29. Non-Discrimination.

Company its employees, agents, and representatives will not discriminate because of age, race, religion, creed, color, national origin, disability, sexual orientation, gender, gender identity or veterans' status in the recruitment, selection, training, utilization, promotion, termination, or other employment-related activities. This Agreement and all services provided hereunder are expressly subject to the provisions of the United States Executive Order 11246, as amended, and other applicable Federal

Regulations and Orders, issued under or pursuant to the Equal Employment Opportunity Act. Further, Company shall take appropriate action to support the principles in Purina's equal opportunity employment/affirmative action policies. **Company and its subcontractors shall abide by the requirements of 41 CFR 60-300.5(a). This regulation prohibits discrimination against qualified protected veterans, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified protected veterans. Company and its subcontractors shall abide by the requirements of 41 CFR 60-741.5(a). This regulation prohibits discrimination against qualified individuals on the basis of disability, and requires affirmative action by covered prime contractors and subcontractors to employ and advance in employment qualified individuals with disabilities.**

[Signature Page Follows]

IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first above written.

Nestlé Purina PetCare Company (“Purina”)

City of Muscatine (“Company”)

By: _____

By: _____

Name: Casey Hansen

Name: _____

Title: Plant Manager

Title: _____

EXHIBIT A

WET MATERIAL PROFILE(S)

The types of (wet) waste material from the Nestle Purina – Davenport, IA facility that will be sent to the Muscatine WWTF include the following:

- 1) Equalization Tank pump outs
- 2) Fat Trap clean outs
- 3) Wastewater sump clean outs
- 4) Waste slurries
- 5) Waste LAD
- 6) Waste Tallow
- 7) Dye Water

None of the wastes above will contain RCRA Hazardous waste. The wastes are expected to have the following general characteristics:

Parameter	Typical Range	Extended Range
pH	6-8 S.U.	5 – 10 S.U.
Suspended Solids	500 – 70,000 mg/l	100 – 100,000 mg/l
BOD	500 – 280,000 mg/l	200 – 300,000 mg/l

DRY MATERIAL PROFILE(S)

Beneficial Use Materials & By-Product:

- a. Processing (meal) wastes
- b. Processing (fines)
- c. Finished (shaped and dried) product
- d. Pet treats processing wastes (biscuits)
- e. Off-specification finished product
- f. Raw ingredients i.e. grains of various types (corn, wheat, barley, rice)
- g. Raw ingredients i.e. sacks, super-sacks, mixed – SDS will be provided as needed
- h. Off-spec or unusable raw meats i.e. beef, chicken, salmon etc.
- i. Raw vitamin premixes – SDS will be provided as needed
- j. Sludges – out of specification slurries, oil & grease, fats, food grade oils
- k. Floor sweepings
- l. Compostable packing materials

None of the wastes above will contain RCRA Hazardous waste.

EXHIBIT B

COMPANY SERVICES AND FEES

Liquid sludge and/or dry material will be transported to the City of Muscatine's waste processing facility by Environmental Management Services (EMS) or other qualified contractor from Purina's Davenport facility. The material will be transferred as (appropriate) into the City of Muscatine's storage tanks for metered dosing into anaerobic digesters.

The anticipated volume and frequency of delivery of Purina's wet waste material is as follows:

- Estimated 55,000 lbs per month (fat trap cleanout)
- Estimated 500,000 lbs per quarter (EQ tank cleanout)
- Estimated 10,000 lbs per quarter (sump pit cleaning)
- Estimated 10,000 gal per spill (occasional emergency spill cleaning)

The anticipated volume and frequency of delivery of Purina's dry waste material is as follows:

- Estimated 550,000 lbs per month (Processing wastes, fines and finished product)
- Estimated 100,000 lbs per month (Raw Ingredients)
- Estimated 10,000 lbs per quarter (Off-Spec meats, i.e. beef, chicken, salmon)

The City of Muscatine will invoice the transportation contractor at a rate of \$.10/gallon for wet material. The rate for dry materials will be \$40/ton and will bill Contractor directly. Contractor will bill NPPC.

The City of Muscatine reserves the right to refuse material from Purina in the event that the treatment facility is down and/or constrained on capacity.

EXHIBIT C.1

COMPOSTING OPERATION - MINIMUM REQUIREMENTS & SUBMITTALS

1. Company shall provide a detailed description of the composting process, raw ingredients and facility, demonstrating that it meets the following minimum requirements:
 - a) Compost Process:
 - i. For in-vessel method: Minimum composting temperature of 130 deg F maintained for > 3 days.
 - ii. For windrow method: Minimum composting temperature of 130 deg F maintained for > 15 days and windrow are turned a minimum of 5 times during this period.
 - iii. Minimum final compost cure > 2 weeks.
 - b) Stormwater Management - One or more of the following stormwater management practices are in place and maintained at the composting facility
 - i. No stormwater contact with compost ingredients or processing areas (i.e., completely covered processing area)
 - ii. All stormwater contacting compost ingredients or processing areas is captured and discharged to a POTW
 - iii. All stormwater contacting compost ingredients or processing areas is discharged to surface water under authority of a NPDES permit (attach a copy of the NPDES permit)
 - iv. All stormwater contacting compost ingredients or processing areas is captured and then land applied by subsurface injection meeting the technical criteria stipulated in Exhibit C.2 of this Agreement.
 - c) Liquids Management - Process and practices for handling liquids removed from Purina materials and/or liquids removed from mixtures of Purina materials, prevent them from coming into contact with ruminants.
 - d) Nuisance Controls - Mechanisms and practices are in place to control dust, odor and noise from the composting operation.
2. Company represents and warrants to Purina that, except as disclosed on Exhibit "E," Company has not had any material, unresolved complaints or regulatory actions associated with the composting operation within the last 12 months. Upon request, Company agrees to provide Purina with a copy the documentation of any complaints or regulatory actions.
3. Company represents and warrants to Purina that Company has, and all times during the term of the Agreement will maintain, a valid permit or license issued by the State and/or local authority permitting the composting operations. Upon request, Company agrees to provide Purina with a copy of the permit and/or license.

EXHIBIT C.2

LAND APPLICATION OF LIQUID MATERIALS – MINIMUM REQUIREMENTS & SUBMITTALS

1. Company shall provide a detailed description of the liquid collection, storage and application process, major equipment used, raw ingredients and the application facility(ies), demonstrating that it meets the following minimum requirements:
 - a) Raw Materials:
 - i. Materials are not RCRA hazardous wastes.
 - ii. Materials, when co-mingled, are not RCRA hazardous wastes
 - iii. Materials are managed in accordance with all applicable federal, state and local regulations
 - b) Nutrient Management – Company must develop and operate in accordance with a State/local authority approved Nutrient Management Plan (or equivalent). Application of liquid materials must be made in accordance with this plan and State approved agronomic rates.
 - c) Liquids Application Method - Liquids must be applied by subsurface injection. (i.e., direct application to the ground surface is not allowed.)
 - d) Liquids Application Locations & Prohibitions- Liquids must be land applied on agricultural crop or grass lands owned by Company or under contract to Company. Agricultural fields and grasslands which have liquid materials injected shall not be used for the grazing of ruminants.
 - e) Nuisance Controls - Mechanisms and practices are in place to control dust, odor and noise from the composting operation.
2. Company represents and warrants to Purina that, except as disclosed on Exhibit “E,” Company has not had any material, unresolved complaints or regulatory actions associated with the liquid management and land application operations within the last 12 months. Upon request, Company agrees to provide Purina with a copy the documentation of any complaints or regulatory actions.
3. Company represents and warrants to Purina that Company has and all times during the term of the Agreement will maintain a valid land application facility’s fertilizer license. Upon request, Company agrees to provide Purina with a copy of the license.
4. Company represents and warrants to Purina that Company has, and all times during the term of the Agreement will maintain, a customary land application facility Nutrient Management Plan (or equivalent) approved by the State and/or local authorities. Upon request, Company agrees to provide Purina with a copy of the plan.

EXHIBIT C.3

ANAEROBIC DIGESTION - MINIMUM REQUIREMENTS & SUBMITTALS

1. Company shall provide a detailed description of the anaerobic digestion process, raw ingredients and facility, demonstrating that it meets the following minimum requirements:
 - a) Anaerobic Digestion Process:
 - i. For Mesophilic Reactors (95 °F to 105 °F) - Minimum hydraulic residence time of 20 days.
 - ii. For Thermophilic Reactors (125 °F to 130 °F) - Minimum hydraulic residence time of 15 days.
 - iii. Reactors must capture all biogases. Gases may be used as energy feed stocks on or offsite. Gases that are flared on-site must be in accordance with federal, state and local requirements. (include copy of air permit – if requested)
 - b) Stormwater Management - Stormwater from ingredient unloading & storage and facility processing areas must be managed using one or more of the following methods:
 - i. No stormwater contact (i.e., completely covered areas)
 - ii. Captured and discharged to a POTW (or back through the digester)
 - iii. Discharged to surface water under authority of a NPDES permit (attach a copy of the NPDES permit – if requested)
 - iv. Captured and land applied by subsurface injection in accordance with Exhibit C.2.
 - c) Biological Solids Management – One or more of the following solids management practices are in place and maintained at the facility:
 - i. Incineration – must be in accordance with Exhibit C.4 of this Agreement
 - ii. Composting – must be in accordance with Exhibit C.1 of this Agreement
 - iii. Land Application – must be in accordance with Exhibit C.2 of this Agreement
 - iv. Landfill-Company may send sludge materials to State Approved & Licensed Landfills
 - d) Process Wastewater Management - Process and practices for handling liquids removed from the anaerobic digester that have contacted Purina materials must be prevented from coming into contact with ruminants. Methods of acceptable disposal include:
 - i. Discharge to a POTW (include copy of discharge permit or approval – if requested)
 - ii. Discharged to surface water under authority of a NPDES permit (attach a copy of the NPDES permit – if requested)
 - iii. Composting – must be in accordance with Exhibit C.1 of this Agreement
 - iv. Land Application – must be in accordance with Exhibit C.2 of this Agreement
4. Company represents and warrants to Purina that, except as disclosed on Exhibit “E,” Company has not had any material, unresolved complaints or regulatory actions associated with the operation within the last 12 months. Upon request, Company agrees to provide Purina with a copy the documentation of any complaints or regulatory actions.
5. Company represents and warrants to Purina that Company has, and all times during the term of the Agreement will maintain, a valid permit or license issued by the State and/or local authority permitting the anaerobic digestion operation. Upon request, Company agrees to provide Purina with a copy of the permit and/or license.

EXHIBIT C.4

INCINERATION - MINIMUM REQUIREMENTS & SUBMITTALS

1. Company shall provide a detailed description of the incineration process, raw ingredient handling, energy recovery systems/processes, and ash and by-product handling, demonstrating that it meets the following minimum requirements:
 - a) Process:
 - i. Materials are combusted thru the incinerator at a minimum of 1000 °F with destruction efficiencies greater than 99%.
 - ii. Raw ingredients must be managed in a way to prevent coming in contact with ruminants.
 - iii. Heat or other energy recovery is provided.
 - b) Stormwater Management - Stormwater from ingredient unloading & storage and facility processing areas must be managed using one or more of the following methods:
 - i. No stormwater contact (i.e., completely covered areas)
 - ii. Captured and discharged to a POTW
 - iii. Discharged to surface water under authority of a NPDES permit (attach a copy of the NPDES permit – if requested).
 - c) Ash and By-Products Management – One or more of the following solids management practices are utilized by the facility:
 - i. Composting – must be in accordance with Exhibit C.1 of this Agreement
 - ii. Land Application – must be in accordance with Exhibit C.2 of this Agreement
 - iii. Landfill-Company may send sludge materials to State Approved & Licensed Landfills
2. Company represents and warrants to Purina that, except as disclosed on Exhibit “E,” Company has not had any material, unresolved complaints or regulatory actions associated with the operation within the last 12 months. Upon request, Company agrees to provide Purina with a copy the documentation of any complaints or regulatory actions.
3. Company represents and warrants to Purina that Company has, and all times during the term of the Agreement will maintain, a valid permit or license issued by the State and/or local authority permitting the incineration operation. Upon request, Company agrees to provide Purina with a copy of the permit and/or license.

EXHIBIT C.5

GASIFICATION - MINIMUM REQUIREMENTS & SUBMITTALS

1. Company shall provide a detailed description of the gasification process, raw ingredient handling, synthetic gas handling, ash/char and tar by-product handling, demonstrating that it meets the following minimum requirements:
 - a) Process:
 - i. Materials are processed thru the gasifier at a minimum of 300 °F at 3 atm pressure for at least 20 minutes.
 - ii. Raw ingredients must be managed in a way to prevent coming in contact with ruminants.
 - iii. Reactors must capture all synthetic gases. Gases may be used for gas production, electricity production or further processing to liquid fuels on or offsite. Gases that are flared on-site must be in accordance with federal, state and local requirements. (include copy of air permit – if requested)
 - b) Stormwater Management - Stormwater from ingredient unloading & storage and facility processing areas must be managed using one or more of the following methods:
 - i. No stormwater contact (i.e., completely covered areas)
 - ii. Captured and discharged to a POTW
 - iii. Discharged to surface water under authority of a NPDES permit (attach a copy of the NPDES permit – if requested)
 - iv. Captured and land applied by subsurface injection in accordance with Exhibit C.2 of this Agreement.
 - c) Ash, Char and Tar By-Products Management – One or more of the following solids management practices are utilized by the facility:
 - i. Incineration – must be in accordance with Exhibit C.4 of this Agreement
 - ii. Composting – must be in accordance with Exhibit C.1 of this Agreement
 - iii. Land Application – must be in accordance with Exhibit C.2 of this Agreement
 - iv. Landfill-Company may send sludge materials to State Approved & Licensed Landfills
4. Company represents and warrants to Purina that, except as disclosed on Exhibit “E,” Company has not had any material, unresolved complaints or regulatory actions associated with the operation within the last 12 months. Upon request, Company agrees to provide Purina with a copy the documentation of any complaints or regulatory actions.
5. Company represents and warrants to Purina that Company has, and all times during the term of the Agreement will maintain, a valid permit or license issued by the State and/or local authority permitting the gasification operation. Upon request, Company agrees to provide Purina with a copy of the permit and/or license.

EXHIBIT D

FACILITIES

City of Muscatine
Water Pollution Control Plant
1202 Musser St.
Muscatine, IA 52761

EXHIBIT E

ENFORCEMENT ACTIONS AGAINST COMPANY

None

EXHIBIT F

COMPANY'S CERTIFICATE(S) OF INSURANCE

[Company to provide insurance certificates.]