

**ATTACHMENT C**  
**MMCAP Infuse****Clinical Products: Member Letter of Participation Form**

For the purchase of Nestlé HealthCare Nutrition (“Nestlé”) nutritional food and related products (the “Products”) listed in Attachment A under the Purchase Agreement (the “Agreement”) between MMCAP Infuse (“MMCAP Infuse”) and Nestlé, Member agrees to the following.

MMCAP Infuse Member Name*:			
Member Address:			
Phone Number:		MMCAP Infuse Member ID	
Annual Nestlé Nutrition Sales:		GLN (if available):	
Member Contact e-mail Address:			

\*If more than one facility, please attach a list of all eligible facilities with the information above (Microsoft Excel preferred).

Please select a contract(s) below:

Pricing Type:	Contract Election <input checked="" type="checkbox"/> Please Check the Appropriate Box(es)	Method of Purchase
		<input checked="" type="checkbox"/> Please Check the Appropriate Box
Clinical: (Choose One)	<input type="checkbox"/> 68258 – Tier 1 - Non-Committed <input type="checkbox"/> 2485797 – Tier 2 - \$50,000 Committed <input type="checkbox"/> 2485798 – Tier 3 - \$150,000 Committed <input type="checkbox"/> 2485799 – Tier 4 - \$800,000 Committed	<input type="checkbox"/> Direct <input type="checkbox"/> Distribution

Committed Tier Requirements.

- Tier 2 - \$50,000 Annual Purchase Commitment - Members that elect this commitment level are eligible to access the pricing on Attachment A-2 of the MMCAP Infuse Agreement (“Committed Pricing”). During each 12-month period that each Member buys Products pursuant to this Agreement, Member will commit that a minimum of \$50,000 in aggregate of its total purchase of nutritional food and related products will be Products purchased under this MMCAP Infuse Agreement.
- Tier 3 - \$150,000 Annual Purchase Commitment - Members that elect this commitment level are eligible to access the pricing indicated on Attachment A-3 of the MMCAP Infuse Agreement (“Committed Pricing”). During each 12-month period that each Member buys Products pursuant to this Agreement, each Member will commit that a minimum of \$150,000 in aggregate of its total purchase of nutritional food and related products will be Products purchased under this MMCAP Infuse Agreement.
- Tier 4 - \$800,000 Annual Purchase Commitment - Members that elect this commitment level are eligible to access the pricing indicated on Attachment A-3 of the MMCAP Infuse Agreement (“Committed Pricing”). During each 12-month period that each Member buys Products pursuant to this Agreement, each Member will commit that a minimum of \$800,000 in aggregate of its total purchase of nutritional food and related products will be Products purchased under this MMCAP Infuse Agreement.

Should Member elect to change its commitment during the term of this Agreement, a new LOP must be signed and submitted. For purposes of measuring compliance, only the Products listed in Attachment A be taken into consideration. In exchange for fulfilling this purchasing commitment, Member acknowledges that it is given prices that are less than the non-committed prices that would otherwise be available to it. Member will keep complete and accurate records and books of account, so that Nestlé and its authorized representatives can determine Member’s compliance with any purchasing commitment it makes. Member will preserve such books and records for at least two (2) years after the end of the contract year to which the books and records relate and will give Nestlé and its authorized representatives access to such books and records from time to time during normal business hours and upon reasonable notice to verify compliance. On a quarterly basis, Nestlé shall have the right to review Member’s compliance with its purchase commitment and if member fails to achieve such commitments, Nestlé shall have the right to move Member to the appropriate pricing tier on the MMCAP Infuse Agreement.

Member may withdraw or re-establish its purchasing commitment provided Nestlé receives at least thirty (30) days advance written notice of such election through the execution and delivery of a new LOP. The change becomes effective the first day of the month following

expiration of the thirty (30)-day notice period. Upon the effective date of any withdrawal of a purchasing commitment, Product prices will revert to the non-committed level.

Method of Purchase:

Direct from Nestlé. All orders are subject to acceptance by Nestlé and the return of Products is governed by Nestlé's standard return of goods policy. Invoices from Nestlé are due and payable within thirty (30) days of the invoice date, except that due date for payment is extended by five (5) days for payments made by financial electronic data interchange ("FEDI"). If Nestlé does not receive payment in full by the date due, Nestlé may deny or revoke credit to Member and may refuse to make further shipments until payments are made in full. Member has no right of set off and may take no deductions, unless it is instructed to do so by Nestlé through issuance of a credit memorandum, except as required by law. Deductions, credits or payments and notice of any incorrect charges must be given to Nestlé in writing within ninety (90) days of the Nestlé invoice to which the claim relates. Claims made after the ninety (90)-day period are null and void.

From Distributor/Wholesaler. The Products are subject to a distributor mark-up and are available through an MMCAP Infuse Authorized Wholesaler or a Nestlé Authorized Wholesaler. Please indicate your primary and secondary distributors below.

MMCAP Infuse Authorized Wholesalers:	Other Nestlé Authorized Wholesaler:
<input type="checkbox"/> AmerisourceBergen	Wholesaler Type: <input type="checkbox"/> Medical Surgical <input type="checkbox"/> Drug/Pharmaceutical <input type="checkbox"/> Food Service
<input type="checkbox"/> Cardinal Health (Pharmaceutical)	
<input type="checkbox"/> Morris & Dickson	
Name of Wholesaler: _____	

Effective Date. This agreement becomes effective on the 1<sup>st</sup> day of the month following acceptance and execution by an authorized representative of Nestlé, provided it is received by the 20<sup>th</sup> of the month.

Termination. Any party may terminate this Agreement on thirty (30) days prior written notice to the other parties.

Nondisclosure. To the extent permitted by law, the price terms are confidential and proprietary to Nestlé and may not be disclosed without Nestlé's prior written consent.

In signing this LOP, Member represents that it is buying the Products for its own use in the provision of health services by government facilities to its customers who consume or use the Products and that it has designated MMCAP Infuse as the only group purchasing organization through which it will buy the Products ("Own Use"). Member shall not engage in the sale of the Products to anyone who, in turn, engages in resale of the Products. Own Use does not include the purchase of Products for retail or e-commerce purposes and Member shall not attempt to resell Products purchased hereunder via retail or e-commerce channels, including, but not limited to the resale of products to any person, employees of Member or any other entity outside of the Own Use requirements defined herein. Member hereby acknowledges that violation of the Own Use provisions under the Agreement will subject Member to possible removal of eligibility to purchase under this Agreement.

**Member/End User:**

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

\_\_\_\_\_  
Facility/Parent Group Name

**Nestlé HealthCare Nutrition, Inc.**

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

\_\_\_\_\_  
Printed Name

\_\_\_\_\_  
Date

Nestlé HealthCare Nutrition, Inc.  
Company

Please send this completed form by e-mail to:  
[hcncontracts@us.nestle.com](mailto:hcncontracts@us.nestle.com)

Thank you.