

ATTACHMENT C
MMCAP Infuse
Infant Products: Member Letter of Participation Form

For the purchase of Gerber Products Company dba Nestlé Infant Nutrition (“Nestlé”) infant formula, infant foods and related accessories (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:			
Member Contact e-mail Address:			

Member selects the contract(s) below:

Tier Election	Method of Purchase
	<input checked="" type="checkbox"/> Please Check the Appropriate Box
Contract# 2485489 – Tier 1 – Non-Committed	<input type="checkbox"/> Direct <input type="checkbox"/> Distribution

1. Terms of Product Use. Powdered infant formulas are not sterile and should not be fed to premature infants or infants who have immune problems unless directed and supervised by a physician.

2. Method of Purchase (Please choose all that apply):

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 Federal 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. 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 MMCAP Infuse Authorized or Vendor Authorized Distributor/Wholesaler. The Products are subject to a distributor mark-up. Please indicate your primary and secondary distributors below.

Primary Distributor:

Secondary Distributor:

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

4. Termination. Any party may terminate this LOP upon thirty (30) days prior written notice to the other party.

5. Nondisclosure. The terms of this LOP (including all information related to price terms) is confidential and proprietary to Nestlé and may not be disclosed without Nestlé’s prior written consent; provided, however, that Member may disclose the terms of this LOP (including all information related to price terms) to MMCAP without obtaining Nestlé’s consent.

6. Compliance with Laws. Member agrees that it will comply with applicable laws, including discounts and safe harbor reporting requirements.

7. Own Use. Member represents that it is buying the Products for its own use in the provision of health services to its customers who consume or use the Products and that it has designated MMCAP 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 LOP will subject Member to reimbursement to Nestlé in an amount equal to the difference between the pricing under the LOP and Nestlé’s list price in effect at the time of purchase for each Product purchased in violation of the Own Use provisions.

Member Signature:

Authorized Signature

Printed Name

Date

Member Facility Name

Please send this completed form by e-mail to:

hcncontracts@us.nestle.com