

CONFIDENTIEL

ALLIANCE AGREEMENT

between

Nestec Ltd., Avenue Nestlé 55, CH-1800 Vevey, Switzerland
(hereafter "Nestec")

and

Ecole Polytechnique Fédérale de Lausanne, CH-1015 Lausanne, Switzerland
(hereafter "EPFL")

(hereafter individually "**Party**" or collectively "**Parties**")

Preamble

Whereas EPFL is a world leader in brain research;

Whereas Nestec is part of the Nestlé Group, a world leader in the food and nutrition industry;

EPFL and Nestec have decided to collaborate and bring their resources together toward promoting research on the impact of nutrition on cognitive performance, more specifically in the four following axis: (i) in adults and elderly, by preventing or slowing ageing-associated cognitive decline and neurodegeneration; (ii) in infants and children, by modulating cognitive and brain development; (iii) by impacting on the enteric and central nervous system axis, and (iv) by developing solutions to improve perception of food.

IT IS HEREBY AGREED as follows:

Article 1 : Definitions

- 1.1 "**Agreement**" means this agreement, any signed amendment to it, as well as any attached exhibit, annex, appendix, schedule, protocol or other equivalent addendum.
- 1.2 "**Chair**" means each of the two Nestlé-endowed chairs to be created at EPFL pursuant to this Agreement, respectively dedicated to (i) research on the impact of nutrition on cognitive and brain development in infants and children, and (ii) research on the impact of nutrition on the interaction between the enteric and central nervous system (gut-brain axis). Each Chair shall be headed by a tenure-track assistant professor to be recruited by EPFL, and shall additionally comprise a group of researchers and laboratory equipment defined according to the rules usually applicable at EPFL for new Chairs.

- 1.3 **"Effective Date"** means the date of signature of this Agreement by the last Party to sign.
- 1.4 **"Research Project"** means any research project pertaining to at least one of the four axis of research detailed in Article 2.1, and called for by the Parties pursuant to Article 4.1.
- 1.5 **"Scientific Committee"** means a group a three research scientists of each Party, as indicated in Appendix IV, whose functions are (1) to define the scientific profile of the junior groups of researchers attached to each Chair, (2) to call for Research Projects, (3) to review and select the Research Projects and the Scientific Services, (4) to review the progress made in the various Research Projects and Scientific Services, and (5) to resolve amicably any dispute that may arise between the Parties in connection with a Research Project agreement or a Scientific Services agreement. Each Party shall have one vote in the Scientific Committee, in which all decisions shall require unanimity.
- 1.6 **"Scientific Services"** means any scientific services pertaining to at least one of the four axis of research detailed in Article 2.1, and requested by Nestec pursuant to Article 5.1.
- 1.7 **"Steering Committee"** means a group of three management representatives of each Party, as indicated in Appendix V, whose functions are (1) to decide matters brought up to it by the Scientific Committee and (2) to resolve amicably any dispute that may arise between the Parties in connection with this Agreement. Each Party shall have one vote in the Steering Committee, in which all decisions shall require unanimity.

Article 2 : Scope of the Agreement

- 2.1 EPFL and Nestec shall collaborate in the following axis of research, pertaining to the impact of nutrition on cognitive performance:
1. in adults and elderly, by preventing or slowing ageing-associated cognitive decline and neurodegeneration;
 2. in infants and children, by modulating cognitive and brain development;
 3. by impacting on the enteric and central nervous system axis, and
 4. by developing solutions to improve perception of food.

These four axis of research are further detailed in Appendix I.

- 2.2 The collaboration of the Parties shall occur according to the following modalities:
1. Creation of two (2) Nestlé-endowed Chairs at EPFL, each headed by a tenure-track assistant professor to be recruited by EPFL and co-financed by Nestec for the duration of this Agreement.
 2. Research Projects decided on a case-by-case basis by the Parties and financed by Nestec.
 3. Scientific Services decided on a case-by-case basis by the Parties and financed by Nestec.

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Article 3 : Nestlé-Endowed Chairs

3.1 Upon execution of this Agreement, EPFL shall create two (2) Nestlé-endowed Chairs at EPFL, each headed by a tenure-track assistant professor to be recruited by EPFL. The Parties understand and agree that said tenure-track assistant professors shall be hired according to the procedures applicable at EPFL, with the participation of Nestec in the Nomination Committees for each Chair. Any nomination must be approved in writing by Nestec. The selected candidates shall have the same status as other tenure-track assistant professors at EPFL. 111

3.2 The Chairs shall be integrated in the "Brain and Mind Institute" at EPFL ("BMI"), and shall respectively be dedicated to research on the impact of nutrition on cognitive and brain development in infants and children (see axis (2) in Article 2.1 above), and research on the impact of nutrition on the interaction between the enteric and central nervous system (gut-brain axis) (see axis (3) in Article 2.1 above).

3.3 The Chairs shall respectively be denominated as follows:

- (a) The Nestlé Chair on Nutrition and Brain Development (for axis (2) in Article 2.1 above).
- (b) The Nestlé Chair on Gut-Brain Interactions (for axis (3) in Article 2.1 above).

The denomination of the Chairs shall remain unchanged, except by mutual agreement of the parties.

3.4 Nestec undertakes to co-finance with EPFL the Chairs as follows:

CHF 5 Mios, payable by Nestec to EPFL as yearly installments of CHF 1,000,000, with the first installment due within 30 days of signature and subsequent installments on the anniversary date thereof.

3.5 The above amounts include VAT and any other tax, in the event that any such tax is applicable.

All invoices shall be sent by EPFL to the following address:

Nestec Ltd
Nestlé Research Center
Finance Department
P.O. Box 44
1000 Lausanne 26
Switzerland

3.6 Nestec shall make all payments within thirty (30) days from receiving the corresponding invoice.

All payments shall be made to the bank or post account designated in writing by the EPFL.

Handwritten signature/initials

Article 4 : Research Projects

- 4.1 In order to promote research on the impact of nutrition on cognitive performance, the Scientific Committee shall call for research proposals within EPFL on topics pertaining to at least one of the four axis of research detailed in Article 2.1. The Parties shall then enter a separate Research Project agreement according to the procedure described in this Article 4.
- 4.2 The Scientific Committee shall have the responsibility for reviewing and selecting the Research Projects, and for negotiating the financing, timeline, principal investigators and detailed scientific content of each Research Project. Each Party shall have one vote in the Scientific Committee, and any decision to perform a specific Research Project requires unanimity of these votes. In case of disagreement of the Parties regarding a specific Research Project, each Party shall have the right (but not the obligation) to bring up the matter to the Steering Committee for final decision. The Steering Committee shall then decide unanimously, according the same modalities as the Scientific Committee. Should the Steering Committee not reach a unanimous decision, the Research Project shall not be performed.
- 4.3 The Parties shall use the template Research Project agreement attached to this Agreement as Appendix II, and shall negotiate only the terms which are specific to the Research Project, such as the cost, timeline, principal investigator and detailed scientific content. The Parties undertake not to renegotiate any other terms of said template Research Project agreement (especially the intellectual property terms), except in exceptional and objectively motivated cases. The Parties understand and agree that according to the template Research Project agreement attached in Appendix II, Nestec shall be the owner of all intellectual property rights generated during the Research Projects, subject to the license rights granted to EPFL pursuant to said template Research Project agreement.
- 4.4 The Parties understand and agree that Nestec shall have no obligation to finance any Research Project unless a separate Research Project agreement is executed by the Parties. EPFL represents that the cost to Nestec of the Research Projects shall not include any overhead. The total budget of Nestec for the Research Projects and the Scientific Services all together is up to CHF 2-4 Mios per year for the duration of this Agreement.

Article 5 : Scientific Services

- 5.1 Nestec shall have the right to request from EPFL the provision of Scientific Services related to at least one of the four axis of research detailed in Article 2.1.
- 5.2 The Scientific Committee shall decide whether a specific Scientific Service shall be performed by EPFL, by using the same procedure as indicated in Article 4.2 above.
- 5.3 The Parties shall use the template Scientific Services agreement attached to this Agreement as Appendix III, and shall negotiate only the terms which are specific to the Scientific Services, such as the cost, timeline, principal investigator and detailed

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scientific content. The Parties undertake not to renegotiate any other terms of said template Scientific Services agreement (especially the intellectual property terms), except in exceptional and objectively motivated cases. The Parties understand and agree that according to the template Scientific Services agreement attached in Appendix III and subject to its terms, Nestec shall be the owner of all intellectual property rights pertaining to the results of any Scientific Services.

- 5.4 The Parties understand and agree that Nestec shall have no obligation to finance nor request any Scientific Services unless a separate Scientific Service agreement is executed by the Parties. EPFL represents that the cost to Nestec of the Scientific Services shall be calculated as to include only the direct costs of EPFL and a fifty percent (50%) overhead. The total budget of Nestec for the Research Projects and the Scientific Services all together is up to CHF 2-4 Mios per year for the duration of this Agreement.

Article 6 : **Exclusivity**

For the duration of this Agreement, the EPFL shall not enter into any other collaboration with commercial partners in the food industry, if said collaboration (a) is directed to studying the impact of nutrition on cognitive performance as defined in Article 2.1 and (b) implies the participation of any EPFL personnel and/or specific laboratory which are directly involved (i) in the Scientific Committee, (ii) in any Scientific Services or (iii) in any Research Project.

Article 7 : **Communication to the public**

The Parties undertake to communicate to the public about this Alliance Agreement in a concerted manner. To this effect, the Parties shall agree to a common communication policy and shall cause its representatives of the Steering and Scientific Committee to comply with the confidentiality undertakings specified in the Research Project and Scientific Services Agreements entered into within the framework of this Agreement.

Article 8 : **Independent Contractors**

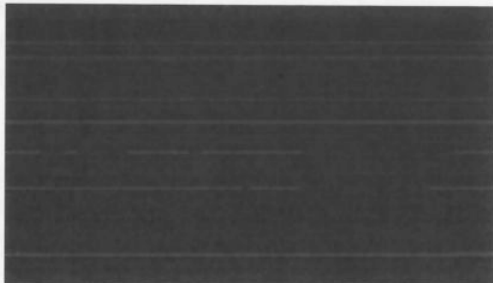
The EPFL shall at all times be an independent contractor, and not an agent, partner, joint venturer or employee of Nestec, and nothing contained herein shall be deemed to create any employment, partnership or joint venture relationship between the Parties. The EPFL shall not be eligible to participate in any benefits extended by Nestec to its employees, and neither party nor its employees will have no authority to bind or commit another party to any obligation or agreement, or speak for, represent or obligate another party in any way.

Article 9 : **Communication between the Parties**

Any notice or communication to be given within the framework of this Agreement between the Parties shall be forwarded to the following contact persons:

For Nestec:

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For the EPFL:

- Gabriel Clerc
Head of EPFL Technology Transfer
EPFL-SRI
Station 10
CH-1015 Lausanne
e-mail: gabriel.clerc@epfl.ch
Telephone: 021 693 35 82
Fax: 021 693 70 40

Article 10 : Duration

This Agreement shall come into effect on the Effective Date for a duration of five (5) years.

Article 11 : Entire Agreement and Amendments

This Agreement sets forth the entire agreement between the Parties and supersedes all prior agreements and understandings between the Parties (whether written or oral) relating thereto, except any prior confidentiality agreement which may have been entered by the Parties, and which shall continue to apply. This Agreement may be amended only in writing with the signature of a duly authorized representative of each Party.

Article 12 : Applicable law, Jurisdiction, and Dispute Resolution

- 12.1 This Agreement shall be governed by, and construed in accordance with, the laws of Switzerland. Swiss private law including the provision of the Swiss Code of Obligations shall apply to this Agreement.
- 12.2 The Parties agree that any dispute which cannot be resolved amicably shall be submitted exclusively to the competent courts of Lausanne, subject to appeal to the Swiss federal Tribunal.

Handwritten initials/Signature

12.3 Prior to initiating litigation, the Parties shall make a good faith attempt to resolve the dispute amicably. The Steering Committee shall first attempt to resolve the matter by negotiation, and shall attend to at least one meeting to this effect. If the dispute is not resolved within sixty (60) days thereafter, either Party shall be free to initiate court proceedings.

IN WITNESS WHEREOF, the Parties have signed this Agreement.

Nestec Ltd.
Avenue Nestlé 55
CH-1800 Vevey
Switzerland

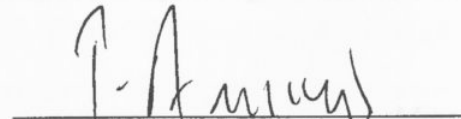
Ecole Polytechnique Fédérale de
Lausanne
CH-1015 Lausanne
Switzerland

By its duly authorized representative(s):

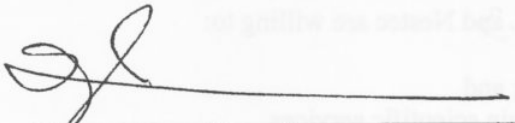
By its duly authorized representative(s):



Name: Werner Bauer
Title: Executive Vice President Nestlé S.A.
Head of Corporate Technical, Production,
Environment and R&D



Name: Prof. Patrick Aebischer
Title: President, EPFL



Name: Peter Van Bladeren
Title: Head of the Nestlé Research Center

Date: November 21, 2006

