

## **Directives concerning the management of conflicts of interest within the context of activities or public duties engaged in outside the working sphere**

17 October 2005

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The Direction of the EPFL,

Based on art. 6 of the *Ordonnance sur le Corps professoral des EPF* (Ordinance on the EPF faculty) (RS 172.220.113.40)<sup>1</sup>

Based on articles 53<sup>2</sup> and 56<sup>3</sup> of the *Ordonnance du personnel des EPF* (Ordinance on EPF staff) (O. pers.) (RS 172.220.113)

*decrees :*

### **Preamble**

The interactions of EPFL professors and other staff members with industry, the economy and other institutions are beneficial for both teaching and research. In order to avoid and deal with any conflicts of interest that may result from these interactions, and ensure that such activities are not inconsistent with individual responsibilities towards the EPFL, the Direction wishes to determine, by these directives, principles and rules intended to protect the interests of employees, the EPFL and third parties.

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#### **<sup>1</sup>Art. 6 Activities unrelated to the EPF**

- 1 Professors may have in their own name, on their own behalf and under their own responsibility, professional activities outside of their work relationship with the EPF, particularly as experts, insofar as these are not to the detriment of their contractual obligations.
- 2 They must obtain permission from the President of the EPF to exercise an activity unrelated to the EPF requiring a total of more than one day per week for a full-time post.
- 3 They must obtain permission from the President of the EPF to be a member of a board of directors or the management of a company. Permission is granted when no prejudice to any interest of the EPF exists.
- 4 If professors have recourse to EPF resources, such as laboratory equipment or secretarial services, for a remunerated activity unrelated to the EPF, they must compensate the EPF. The two EPFs decree the necessary provisions.

#### **<sup>2</sup> Art. 53 Performance of tasks**

Staff members are obliged to perform the tasks specified in their employment contract in a competent and responsible manner, to adhere to instructions given by the company and their immediate superiors and to be loyal and cooperative towards their colleagues.

#### **<sup>3</sup> Art. 56 Activities performed outside the working sphere** (art. 23 LPers)

- 1 Any activity or public function exercised by a staff member outside of his/her work relationship with one of the EPFs or research institutes requires the authorisation of the service concerned if a potential conflict of interest exists or if the staff member's work is likely to be affected.
- 2 In case of doubt, staff members inform their immediate superior.

Conflicts of interest may arise as a result of the plurality of various tasks, particularly when a part of these tasks is performed in the personal interest of the employee or a third party. Other conflicts of interest are created if a person is in a position to influence the relationship of the EPFL with the third party, with or without personal financial gain.

## **CHAPTER I**

### **APPLICATION**

#### **Article 1 Sphere of application**

The present directives apply to all staff, regardless of their status, having a work relationship with the EPFL, or with the EPF Board but occupying a post at the EPFL, (hereafter referred to as « employee »). However, owing to the different legal bases, certain provisions distinguish between staff members (including adjunct professors) and professors (full, associate and assistant).

In these directives, the term « external activity » designates any activity engaged in by an employee outside of his/her work relationship with the EPFL (or the EPF Board), whether remunerated or not. This may involve an activity carried out on the employee's own behalf, on behalf of a private company or public institution, or a public function.

## **CHAPITRE II CONFLICTS OF INTEREST**

#### **Article 2 Protection of the employer's interests**

As a general rule, employees must do their utmost to avoid any actions that could prove detrimental to the EPFL.

#### **Article 3 Time management**

<sup>1</sup> Employees exercising an external activity, whether remunerated or not, must ensure that the latter remains compatible with the obligations ensuing from their employment contract. In case of doubt, they inform and consult their immediate superior.

<sup>2</sup> The time management of professors is governed by article 6 of the Ordinance on the EPF faculty of 18 September 2003.<sup>4</sup>

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<sup>4</sup> See footnote no 1.

## **Article 4**            **Influence exerted by the employee**

<sup>1</sup> Employees exercising an external activity must ensure that, in the course of this activity, no influence is exerted in favour of, or to the detriment of, the interests of the EPFL. If necessary, they must disclaim competence.

<sup>2</sup> The expression of personal ideas or opinions in public or within a public body would not be considered as the exerting of influence in the sense of the previous paragraph.

## **Article 5**            **Use of the EPFL's name**

Employees exercising an external activity must ensure that the latter does not appear as being an activity carried out on behalf of the EPFL. The following in particular are not permitted : the use of EPFL notepaper, the EPFL logo or invoices bearing the EPFL letterhead, the incorporation of pages from the EPFL website into another site other than via a simple hypertext link, or the opening of bank accounts in the name of the EPFL.

## **Article 6**            **Use of EPFL resources**

<sup>1</sup> Employees may use the following EPFL resources free of charge in connection with the exercising of an external activity :

1. secretarial work : up to one day per month.
2. the personal computer placed at their disposal (this does not include other computers), to the same extent as provided for in the Directives concerning the use of computer equipment supplied to staff members. <sup>5</sup>
3. the telephone, to the same extent as provided for in the Directives referred to in point 2 above.

The use of any other resources (whether staff, material or scientific or other equipment), requires a contact between the EPFL and the third party for whom the external activity is performed or between the EPFL and the employee in the case of external activity not carried out for a third party. The Industrial Relations Office (SRI) has the competence to draw up this contract.

It is specified that this article 6, first paragraph, also applies to the external activities of professors in the sense of article 6 of the *Ordonnance sur le corps professoral*<sup>6</sup>.

<sup>2</sup> The use of intangible assets belonging to the EPFL (inventions, patents, software, etc) by an employee within the framework of an external activity must constitute the subject of a contract approved by the EPFL via the Industrial Relations Office (SRI).

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<sup>5</sup> see : <http://sicwww.epfl.ch/informatique/directives2002.pdf>

<sup>6</sup> See footnote no. 1.

## **CHAPTER III    PREVENTIVE PROCEDURE**

### **Article 7            External activity**

<sup>1</sup> Before exercising any external activity, whether remunerated or not, the employee evaluates the risk of conflicts of interest entailed by the afore-mentioned activity.

<sup>2</sup> If a potential conflict of interest exists, the employee applies for permission to exercise the afore-mentioned activity to the Dean or, in the case of a professor, the VPAA or, in the case of central administration staff, the appropriate VP. The authorisations granted are entered in a central register. The application will mention:

- an estimation of the time required for the activity
- a description of the type of activity
- the preliminary opinion of his/her superior
- if applicable, the amount of the remuneration that will be received for this activity
- if applicable, the undertaking in accordance with article 8, paragraph 3.

<sup>3</sup> Such permission can only be granted insofar as the activity fulfils the criteria defined in articles 2 to 6 and 9.

### **Article 8            Expert valuations, advice and similar activities engaged in by professors**

<sup>1</sup> Professors must disclose to the VPAA all external activities such as consulting, scientific advice or expert valuations that they may exercise in accordance with article 6 of the *Ordonnance sur le corps professoral*<sup>7</sup>. This disclosure occurs once a year for the previous twelve months and mentions the activities carried out during that year (including those still in progress). The disclosure will include the following information:

- type and area of activity
- name of principal.

In the case of the use of EPFL resources or potential conflicts of interest, article 6, or article 7, paragraph 2, remains applicable respectively.

<sup>2</sup> The activities of professors referred to in the present article are exercised in a private capacity, that is in their own name, on their own behalf and under their own responsibility.

<sup>3</sup> For all activities referred to in the first paragraph, the professor will obtain from his principal or co-contracting party a written undertaking towards the EPFL concerning (i) intellectual property belonging to the EPFL and (ii) the fact that the mandate does not commit the EPFL. The terms of this undertaking are stipulated by the SRI, which provides a standard text.

### **Article 9            Interests of the EPFL**

<sup>1</sup> The interests of the EPFL must be protected. This protection especially entails preventing research work carried out within the EPFL from being used and divulged in the framework of an external activity.

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<sup>7</sup> See footnote No 1

<sup>2</sup> A private mandate must not prevent the EPFL from using, protecting and/or transferring the results of its research.

### **Article 10          *Activity as administrator or company director***

An activity as administrator or company director represents a special case owing to the responsibilities towards and connection with the company that it implies. Such a mandate requires authorisation from the Dean or VPAA in the case of a professor, or in the case of central administration staff, from the appropriate VP. The latter keep a register containing the name of employees who are members of boards of directors or who exercise the function of director, the name of the company and its headquarters.

### **Article 11          *Founding of new companies (start-ups)***

Employees who participate in the founding and development of a company must inform the Dean, or the VPAA in the case of professors. They are obliged to sign a personal undertaking issued by the SRI.

### **Article 12          *Financial holdings***

Employees inform the Dean, professors the VPAA, and central administration staff the appropriate VP, concerning any financial holdings in companies, if any potential conflict of interest exists.

## **CHAPTER IV      *MEASURES TO BE ADOPTED IN CASE OF CONFLICT***

### **Article 13          *Mediation***

Any immediate superior who identifies the existence of a situation that does not comply with the present directives endeavours to settle the matter directly with the employee, supported by the Dean acting as mediator or, in the case of central administration staff, by the appropriate VP. If a professor is involved, the Dean attempts to settle the matter, supported by the VPAA acting as mediator.

### **Article 14          *Intervention of the General Secretariat or President***

<sup>1</sup> If no agreement can be reached to terminate the situation of nonconformity, the mediator submits the dossier to the General Secretariat, or the President in the case of a professor, to enable them to take, or arrange for, any measures considered necessary to regularise the situation.

<sup>2</sup> The employee is notified by the mediator that the dossier is being submitted to the General Secretariat or President for settlement.

## **CHAPTER V    FINAL PROVISIONS**

### **Article 15        Coming into force**

The present directives come into force on 1st December 2005. Employees who had previously been granted permission to exercise a subsidiary activity retain this prerogative. Should a conflict of interest in the sense of the present directives arise, the situation will be dealt with in accordance with the present provisions.

### **Article 16        Repeal of legal provisions**

The Directives concerning the management of conflicts of interest within the framework of activities or public duties performed outside the working sphere of 24 March 2003 are repealed.

Table of cases  
**1. For professors**

<b>Case</b>	<b>Action to be taken by professor</b>	<b>Involving whom ?</b>
<b>External activity in general</b>	Evaluate risk of conflict of interest	Themselves
<b>External activity with risk of conflict of interests</b>	Request authorisation	VPAA
<b>Expert valuation or other activity according to art. 6 <i>Ord. sur le corps professoral</i></b>  <b>+ in case of potential conflict of interest</b>	Duty to disclose (annual) Commitment signed by principal  Request authorisation	VPAA SRI  VPAA
<b>Use of EPFL resources (exceeding art. 6, par.1) in framework of external activity</b>	Contract with EPFL	SRI
<b>Use of EPFL intangible assets in framework of external activity</b>	Contract with EPFL	SRI
<b>Directorship or seat on board of directors</b>	Request authorisation	VPAA
<b>Founding of a company</b>	Duty to disclose Signing of personal agreement	VPAA SRI
<b>Financial holdings, with potential conflicts of interest</b>	Duty to disclose	VPAA

## 2. For staff

<b>Case</b>	<b>Action to be taken by staff</b>	<b>Involving whom ?</b>
<b>External activity in general</b>	Evaluate risk of conflict of interest	Themselves
<b>External activity with risk of conflict of interest</b>	Request authorisation after consulting superior	Dean <sup>8</sup> Superior
<b>Use of EPFL resources (exceeding art. 6, par.1) in framework of external activity</b>	Contract with EPFL	SRI
<b>Use of EPFL intangible assets in framework of external activity</b>	Contract with EPFL	SRI
<b>Directorship or seat on boards of directors</b>	Request authorisation after consulting superior	Doyen <sup>9</sup> Superior
<b>Founding of a company</b>	Duty to disclose Signing of personal undertaking	Dean <sup>10</sup> SRI
<b>Financial holdings, with potential conflicts of interest</b>	Duty to disclose	Dean <sup>11</sup>

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<sup>8</sup> or for central administration staff, the appropriate VP

<sup>9</sup> idem

<sup>10</sup> idem

<sup>11</sup> idem



**Re : Private consulting agreement between**

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hereinafter "CONSULTANT"

and

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hereinafter "COMPANY"

related to

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hereinafter "FIELD"

COMPANY hereby confirms that it has knowledge of and accepts the following :

- 1) CONSULTANT is an employee of EPFL.
- 2) The consulting agreement between COMPANY and the CONSULTANT related to the FIELD is a contract signed by CONSULTANT ad personam and not for or on behalf of EPFL and does not imply any obligation, duties or liabilities for the EPFL.
- 3) Subject to any agreement signed between COMPANY and EPFL, according to the Swiss Federal Act on the EPF (Loi sur les EPF, RS 414.110), intellectual property generated by the CONSULTANT in the performance of his or her activities as an employee of EPFL ("EPFL Results") remains the sole and exclusive property of EPFL. In the case COMPANY has the knowledge of and expresses its interest to such EPFL Results, access rights may be negotiated between EPFL and COMPANY. There is no obligation for EPFL to grant rights to COMPANY on EPFL Results.

For COMPANY :

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Place, date, name, position and signature

Please send one signed original to :  
EPFL-SRI, Attn. Mr G. Clerc, CM2, Station 10, CH-10151 Lausanne, Switzerland

## Agreement

WHEREAS, the Undersigned is a full-time EPFL Professor with financial interests and/or responsibilities in a private business;

WHEREAS, it is the policy of the EPFL to encourage the creation of businesses and employment through technology transfer and to encourage professors, employees and students to take initiatives accordingly, for example by taking active part in the creation of start-ups;

WHEREAS, it is important for a public institution such as the EPFL to make certain that the relations it maintains with private business do not give rise to accusations or suspicion from a legal or ethical point of view through the actions of its members;

WHEREAS, EPFL's top management enacted a Policy on the handling of conflicts of interest related to activities or public functions performed outside the employment with EPFL on October 17, 2005 (hereafter "the Conflicts of Interest Policy"<sup>1</sup>);

WHEREAS, the personal responsibility of the professor is important in that it ensures compliance with standards of law and ethics as well as the transparency of relations;

WHEREAS, the Undersigned, Mrs./Mr. \_\_\_\_\_, currently full-time professor at the EPFL and responsible for the \_\_\_\_\_ Laboratory at the \_\_\_\_\_ School, has or will have financial interests and/or responsibilities in the company \_\_\_\_\_ (hereinafter referred to as "the Start-Up").

*Explain the particular situation and the position of the professor in the company (tasks, responsibilities etc.):*

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NOW, THEREFORE, the Undersigned agrees as follows:

<sup>1</sup> [http://collaborateurs.epfl.ch/page\\_5367.html](http://collaborateurs.epfl.ch/page_5367.html)

1. The Undersigned shall not accept the office of President (or Chairman) of the Board of Directors or Managing Director of the Start-Up; if the Undersigned wishes to serve on the Board, he shall request authorization from EPFL's Vice-President for Academic Affairs. If he serves on the Board, he shall do so on his own behalf and agrees to communicate such information to the Start-Up and to the Start-Up's shareholders, creditors and customers.
2. The Undersigned shall devote no more than one day per week to his activities for the Start-Up. In the event the Undersigned accepts private consulting assignments for third parties in addition to his activities for the Start-Up, the time allotted to all such activities outside the EPFL shall not exceed one day a week except as approved by the Vice-President for Academic Affairs. Article 8 of the Conflicts of Interest Policy shall apply to consulting activities for the Start-Up<sup>2</sup>.
3. Any contract or agreement between the Start-Up and the EPFL shall require the prior approval of EPFL's top management through the Industrial Relations Office (SRI), regardless of the nature, scope and value of the contract. Furthermore, such contracts shall be co-signed by the Dean of the school on behalf of EPFL. Neither the Undersigned, nor his spouse, parent, child, parent's or child's spouse, brother or sister shall be authorized to represent the Start-Up in any contracts or agreements which may be concluded with the EPFL.
4. The Undersigned shall not transfer to the Start-Up any intellectual property obtained or developed at the EPFL such as research results, patented or unpatented inventions or software unless explicitly permitted by contract approved by EPFL's general management through SRI unless said property is in the public domain. Any rights of third parties to said property are reserved.
5. The Undersigned acknowledges that the rights on the inventions and the other intellectual property he generates in the performance of his activities for EPFL belong to EPFL by law, except for the copyrights on works other than software (article 36 of the Swiss Federal Act on the EPF<sup>3</sup>).
6. The Undersigned shall be responsible for making certain that the use for or by the Start-Up of EPFL personnel, equipment, material, software or other resources has been agreed upon in a contract approved by EPFL's top management through SRI and setting forth the terms and conditions of said use, subject to Article 6, paragraph 1, of the Conflicts of Interest Policy<sup>4</sup>. This also applies to any work the Start-Up may wish to subcontract to the EPFL.
7. In the framework of scientific collaborations between the laboratory and third parties, the Undersigned shall strive to treat on equal terms with all industrial partners, including the Start-Up.

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<sup>2</sup> <http://collaborateurs.epfl.ch/page5367.html>

<sup>3</sup> RS 414.110, [http://www.admin.ch/ch/f/rs/c414\\_110.html](http://www.admin.ch/ch/f/rs/c414_110.html)

<sup>4</sup> <http://collaborateurs.epfl.ch/page5367.html>

8. Within the context of his activity with the EPFL, the Undersigned has access to confidential information from third parties or from the EPFL of a technical, commercial or other nature including but not limited to research results, patent applications, contracts, software and/or technical data. The Undersigned acknowledges that this information is subject to the professional secret and trade secret (pursuant to article 22 of the Swiss Federal Act on the Confederation's staff<sup>5</sup>) and therefore shall not disclose such confidential information directly or indirectly to any third parties or use the same outside the EPFL within the context of the Start-Up or for any other purpose except as expressly and previously approved by the EPFL or the rightful owner.
9. In the event the Start-Up intends to conclude an agreement with a business which has concluded or is in the process of concluding a research contract involving the EPFL unit directed by the Undersigned, he shall inform SRI accordingly and describe succinctly the objective of said contract between the Start-Up and such business.
10. The Undersigned shall strive to clearly separate his activity for the Start-Up from his activity for the EPFL in order to avoid any confusion on the part of third parties. Specifically, the Undersigned shall not use the EPFL stationery nor the EPFL logo, shall not integrate pages of the EPFL web site into the Start-Up web site (otherwise than by means of a mere hyperlink) and shall not receive associates of the Start-Up on EPFL premises (except as authorized for specific purposes such as scientific and technical demonstrations).
11. If required, the Dean of the school and/or the Vice-President for Academic Affairs reserve the right to request information on activities conducted by the Start-Up. Such information will be kept confidential by the EPFL.
12. The Undersigned shall promptly notify in full the Vice-President for Academic Affairs of any conflict of interest which may arise and endeavor to seek an equitable solution.

Signed \_\_\_\_\_

Place: \_\_\_\_\_

Title, last and first names: \_\_\_\_\_

Date: \_\_\_\_\_

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<sup>5</sup> RS 172.220.1, [http://www.admin.ch/ch/f/rs/c172\\_220\\_1.html](http://www.admin.ch/ch/f/rs/c172_220_1.html)

## Agreement

WHEREAS, it is the policy of the EPFL to encourage the creation of businesses and employment through technology transfer and to encourage professors, employees and students to take initiatives accordingly, for example by taking active part in the creation of start-ups;

WHEREAS, it is important for a public institution such as the EPFL to make certain that the relations it maintains with private business do not give rise to accusations or suspicion from a legal or ethical point of view through the actions of its members;

WHEREAS, EPFL's top management enacted a Policy on the handling of conflicts of interest related to activities or public functions performed outside the employment with EPFL on October 17, 2005 (hereafter "the Conflicts of Interest Policy"<sup>1</sup>);

WHEREAS, the Undersigned, Mrs./Mr. \_\_\_\_\_, takes an active part in the foundation and the development of the company \_\_\_\_\_ (hereafter "the Start-Up") while, during a limited period, he will be hired by EPFL as a part-time employee at the Laboratory of \_\_\_\_\_ managed by Prof. \_\_\_\_\_;

NOW, THEREFORE, the Undersigned agrees as follows :

1. The Undersigned understands that the EPFL concludes research, licensing and/or scientific collaboration agreements from which obligations may arise related to results and inventions obtained in connection with research conducted at the EPFL.

In view of the existence of such agreements, the Undersigned shall regularly identify and report to his superior those businesses with which the Start-Up has concluded collaboration agreements. If any of said businesses turns out to have concluded or is in the process of concluding a research agreement with the department which employs the Undersigned, his superior reserves the right to modify duties and responsibilities accordingly in order to avoid any conflict of interest.

2. Within the context of his activity with the EPFL, the Undersigned has access to confidential information from third parties or from the EPFL of a technical, commercial or other nature including but not limited to research results, patent applications, contracts, software and/or technical data. The Undersigned acknowledges that this

<sup>1</sup> <http://collaborateurs.epfl.ch/page5367.html>

information is subject to the professional secret and trade secret pursuant to article 57 of the Rules & Regulations of Employment ("Ordonnance sur le personnel du domaine des EPF"<sup>2</sup> ) and therefore shall not disclose such confidential information directly or indirectly to any third parties or use the same outside the EPFL within the context of the Start-Up or for any other purpose except as expressly and previously approved by the EPFL or the rightful owner.

3. The Undersigned acknowledges that research results, know-how, patented or non patented inventions and software developed at EPFL belong to the latter and that any use of such intellectual property by the Undersigned and/or by the Start-Up is not allowed unless a license or transfer agreement has been executed with EPFL according to the applicable internal regulations<sup>3</sup>.
4. The Undersigned understands that the rights to inventions and other intellectual property he generates while exercising his activities for the EPFL are the property of the same, save for copyrights on works other than software (article 36 of the Federal Law on the EPF).
5. When the Undersigned wishes to utilize personnel, equipment, supplies, software or other resources belonging to the EPFL for the benefit of the Start-Up, prior approval for such use will be sought from his superior, subject to Article 6, paragraph 1, of the Conflicts of Interest Policy<sup>4</sup>. A written agreement to be approved by the Industrial Relations Office (SRI) will govern the conditions of such use. This also applies to any work for which the EPFL may act as subcontractor.
6. Should the Undersigned wish to serve on the Board of Directors of the Start-Up or to be Managing Director of the Start-Up, he shall request authorization from the Dean of the school. Where authorized, he shall do so on his own behalf and agrees to communicate such information to the Start-Up and to the Start-Up's shareholders, creditors and customers.
7. The Undersigned shall strive to clearly separate his activity for the Start-Up from his activity for the EPFL in order to avoid any confusion on the part of third parties. Specifically, the Undersigned shall not use the EPFL stationery nor the EPFL logo, shall not integrate pages of the EPFL web site into the Start-Up web site (otherwise than by means of a mere hyperlink) and shall not receive associates of the Start-Up on EPFL

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<sup>2</sup> RS 172.220.113, [http://www.admin.ch/ch/f/rs/c172\\_220\\_113.html](http://www.admin.ch/ch/f/rs/c172_220_113.html)

<sup>3</sup> see <http://sri.cpfl.ch/en>

<sup>4</sup> [http://collaborateurs.cpfl.ch/page\\_5367.html](http://collaborateurs.cpfl.ch/page_5367.html)

premises (except as authorized for specific purposes such as scientific and technical demonstrations).

8. The Undersigned shall prepare a schedule of his activities for the EPFL to be supplied periodically to his superior as agreed by the same.
9. The Undersigned shall promptly notify his superior of any conflict of interest which may arise and endeavor to seek an equitable solution.
10. The Undersigned understands that he remains subject to all his service obligations towards the EPFL, in particular that of defending the interests of the same in accordance with the provisions of the Rules & Regulations of Employment (Ordonnance sur le personnel du domaine des EPF<sup>5</sup>).

Signed at Ecublens on \_\_\_\_\_

Signed \_\_\_\_\_

Name: \_\_\_\_\_

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<sup>5</sup> RS 172.220.113, [http://www.admin.ch/ch/f/rs/c172\\_220\\_113.html](http://www.admin.ch/ch/f/rs/c172_220_113.html)