

UNITED STATES  
SECURITIES AND EXCHANGE COMMISSION  
WASHINGTON, DC 20549

FORM 10-K

- Annual report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934 for the fiscal year ended December 31, 2001  
or  
 Transition report pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934.

**NU SKIN ENTERPRISES, INC.**  
(Exact name of registrant as specified in its charter)

**Delaware**  
(State or other jurisdiction  
of incorporation)

**001-12421**  
(Commission File No.)

**87-0565309**  
(IRS Employer  
Identificaiton No.)

**75 West Center Street**  
**Provo, UT 84601**  
(Address of principal executive offices, including zip code)

Registrant's telephone number, including area code:  
(801) 345-6100

<u>Title of each class</u>	<u>Name of Exchange on which registered</u>
Class A common stock, \$.001 par value	New York Stock Exchange

Secutities registered pursuant to Section 12(g) of the Act: None

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes  No

Based on the closing sales price of the Class A common stock on the New York Stock Exchange on March 18, 2002, the aggregate market value of the voting stock (Class A and Class B common stock) held by non-affiliates of the Registrant was approximately \$286 million. For purposes of this calculation, voting stock held by executive officers, directors, and stockholders holding more than 10% of the voting stock has been excluded.

As of March 18, 2002, 33,769,717 shares of the Registrant's Class A common stock, \$.001 par value per share, and 48,637,043 shares of the Registrant's Class B common stock, \$.001 par value per share, were outstanding.

**Documents incorporated by reference.** Portions of the Registrant's definitive Proxy Statement for the Registrant's 2002 Annual Meeting of Stockholders to be filed with the Securities and Exchange Commission within 120 days after the Registrant's fiscal year end are incorporated by reference in Part III of this report.

Indicate by check mark if disclosure of delinquent filers pursuant to Item 405 of Regulation S-K is not contained herein, and will not be contained, to the best of the Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K.

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### FORWARD LOOKING STATEMENTS

THIS ANNUAL REPORT ON FORM 10-K, IN PARTICULAR "ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS," AND "ITEM 1. BUSINESS," INCLUDE "FORWARD-LOOKING STATEMENTS" WITHIN THE MEANING OF SECTION 21E OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. THESE STATEMENTS REPRESENT THE COMPANY'S EXPECTATIONS OR BELIEFS CONCERNING, AMONG OTHER THINGS, FUTURE REVENUE, EARNINGS, AND OTHER FINANCIAL RESULTS, NEW PRODUCTS, FUTURE OPERATIONS AND OPERATING RESULTS, AND FUTURE BUSINESS AND MARKET OPPORTUNITIES. THE COMPANY WISHES TO CAUTION AND ADVISE READERS THAT THESE STATEMENTS INVOLVE RISKS AND UNCERTAINTIES THAT COULD CAUSE ACTUAL RESULTS TO DIFFER MATERIALLY FROM THE EXPECTATIONS AND BELIEFS CONTAINED HEREIN. FOR A SUMMARY OF CERTAIN RISKS RELATED TO THE COMPANY'S BUSINESS, SEE "ITEM 1. BUSINESS - RISK FACTORS" BEGINNING ON PAGE 22.

Unless the context requires otherwise, references to the Company are to Nu Skin Enterprises, Inc. and its subsidiaries. In this Annual Report on Form 10-K, references to "dollars" and "\$" are to United States dollars. Nu Skin, Pharmanex, "6S Quality Process" and Big Planet are trademarks of the Company. The italicized product names used in this Annual Report on Form 10-K are product names and also, in certain cases, trademarks of the Company.

### PART I

#### ITEM 1. **BUSINESS**

##### General

Nu Skin Enterprises ("Nu Skin Enterprises" or the "Company") is a leading, global direct selling company that develops and distributes premium-quality, innovative personal care and nutritional products. The Company also markets and distributes technology, Internet and telecommunications products and services. Nu Skin Enterprises is one of the largest direct selling companies in the world and currently operates in 34 countries throughout Asia, North and South America and Europe. The Company distributes products primarily through a network marketing system. The Company currently has a sales force of approximately 558,000 active independent distributors located throughout its markets who purchase products for resale to consumers and for personal consumption. The Company also operates a small professional employer organization ("PEO") in the United States that offers outsourced employee benefits to small businesses. The Company has incubated these services with a view of potentially launching these services through the Company's network marketing distribution system. The Company currently has no intention to launch the PEO service through its distributors in the foreseeable future.

##### Operating Divisions

Nu Skin Enterprises has three operating divisions: Nu Skin, which offers personal care products; Pharmanex, which offers nutritional products; and Big Planet, which offers technology, Internet and telecommunications products and services and includes the operations of the PEO. Presented below are the U.S. dollar amounts and percentages of revenue derived by the Company from the sale of Nu Skin products, Pharmanex products and Big Planet products and services for each of the years ended December 31, 1999, 2000 and 2001. This table should be read together with the information presented in "Item 7- Management's Discussion and Analysis of Financial Condition and Results of Operations," which discusses the costs associated with generating the aggregate revenue presented.

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#### Revenue by Product Category<sup>(1)</sup> (Dollar Amounts in Thousands)

<b><u>Product Category</u></b>	<b><u>Year Ended</u></b> <b><u>December 31, 1999</u></b>		<b><u>Year Ended</u></b> <b><u>December 31, 2000</u></b>		<b><u>Year Ended</u></b> <b><u>December 31, 2001</u></b>	
	<b><u>\$</u></b>	<b><u>%</u></b>	<b><u>\$</u></b>	<b><u>%</u></b>	<b><u>\$</u></b>	<b><u>%</u></b>
Nu Skin	503,570	56.3	441,743	50.2	423,707	47.8
Pharmanex	379,241	42.4	383,823	43.6	396,306	44.8
Big Planet <sup>(2)</sup>	<u>11,438</u>	<u>1.3</u>	<u>54,192</u>	<u>6.2</u>	<u>65,608</u>	<u>7.4</u>
Total	894,249	100.0	879,758	100.0	885,621	100.0

(1) Over 83% of the Company's sales are transacted in foreign currencies that are converted to U.S. dollars for financial reporting purposes at weighted average exchange rates. The revenue reported above, therefore, masks local currency revenue growth during 2001 because of

foreign currency fluctuations. Foreign currency fluctuations negatively impacted reported revenue in 2001 by 8.7% compared to 2000 and positively impacted reported revenue in 2000 by 4.0% compared to 1999.

- (2) The Company acquired Big Planet in July 1999. Accordingly, the table above only reflects revenue for the period during which the Company owned Big Planet (*i.e.*, from and after July 13, 1999). Big Planet's revenue for the year ended December 31, 1999 was \$21.8 million. In addition, Big Planet product revenue includes revenue from the PEO in 2000 and 2001.

## Nu Skin

**Overview.** Nu Skin is the Company's original product line and currently consists of premium-quality lines of over 100 personal care products. Nu Skin's strategy is to distribute high quality personal care products and treatments that utilize advanced, innovative formulas. For example, Nu Skin was one of the first companies to market topical applications of various vitamins including Vitamins A, C and E. Other examples include the *Nu Skin 180° Anti-Aging Skin Therapy* system, a scientifically advanced skin care system designed to fight the signs of aging, and *Tru Face Line Corrector*, an innovative product utilizing pro-collagen peptides that help soften moderate to deep lines around the mouth, eyes and forehead. Nu Skin uses its educated distributor force to provide consumers with a high level of information and instruction about its products and guidelines for using them most effectively. Nu Skin was an official sponsor of the Salt Lake City 2002 Olympic Games and is an official sponsor of the U.S. Olympic teams through the 2004 Athens summer games.

**Nu Skin Products.** Nu Skin's personal care products are divided into the following lines: face care, body care, hair care, an ethnobotanical product line, color cosmetics and specialty products. Nu Skin offers products individually and in comprehensive product sets that include a variety of products in each product line.

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The following is a brief description of each product line within the Nu Skin division:

**Face Care.** The face care line is Nu Skin's premier line of personal care products and consists of over 40 different cleansers, moisturizers and special treatments. Nu Skin's cleansers and moisturizers allow users to cleanse thoroughly without causing dryness and to moisturize with effective humectants. Examples of products in this line include: *Rejuvenating Cream*, a facial moisturizer and one of Nu Skin's most popular personal care products; *pH Balance Facial Toner*, a product combining aloe vera and other ingredients designed to prepare the skin for effective moisturization; and a *Nutricentials* line of products that are fortified with topically applied nutrient building blocks.

Nu Skin's specialized treatment products utilize advanced formulas and ingredients designed for specific skin care conditions. Special treatment products include the scientifically advanced *Nu Skin 180° Anti-Aging Skin Therapy* system of products. This product utilizes an optimized level of lactic acid with arginine to help fight the signs of aging. Specialty treatments include a variety of other products including *Nu Skin White*, a line of tone-evening formulations, and *Skin Brightening Complex*, which is designed to diminish the appearance of discoloration caused by sun exposure and aging.

**Body Care.** Nu Skin's line of body care products incorporates premium-quality ingredients to cleanse and condition skin. The body care product line consists of eight different cleansers, moisturizers and special treatments. The cleansers are formulated without soaps, which dry the skin, and include *Body Bar*, a non-soap cleansing bar. Body care special treatments include *Dermatic Effects*, a body contouring lotion containing extracts of hibiscus and malvaceae that has been clinically demonstrated to aid in preventing the appearance of cellulite and aging skin, and *MHA Revitalizing Body Lotion*, which combines multiple hydroxy acids.

**Hair Care.** Nu Skin introduced a new and improved hair care product line in 2001. Each hair care product is enriched with *Nutricentials* - potent nutrients and environmental protectants designed to enhance the appearance of the hair and to meet the needs of people with all types of hair. The new hair care line consists of 13 shampoos, conditioners and styling products that utilize ingredients such as sunflower seed extracts, *Ceregen*, an innovative wheat-based complex of conditioning molecules designed to enhance hair repair, and *Quinoa*, a protein staple.

**Epoch Ethnobotanicals.** *Epoch* is a line of ethnobotanical personal care products created in cooperation with well-known ethnobotanists. These products apply natural compounds that have been traditionally used by indigenous cultures and that have been validated by modern day science. Examples of products in this line include: *Glacial Marine Mud*, a revitalizing clay mask containing beneficial sea botanicals; *Firewalker Foot Cream*, created specifically to soothe and rejuvenate tired, aching feet; and *Epoch Antiseptic Hand Sanitizer*, a product containing lavender that disinfects hands. In 2001, this line was expanded to include *IceDancer*, a soothing gel that utilizes natural wild mint to help soothe aching legs.

**Color Cosmetics.** Nu Skin's color cosmetics line, *Nu Colour*, consists of 13 talc-free products with over 150 SKU's including eye shadow, lipliner, lipsticks, mascara, blush, finishing powder, foundations and concealers.

**Specialty Products.** Nu Skin has licensed the right to sell *Nutriol* products in its direct selling channel. *Nutriol* hair care products include a proprietary ingredient designed to replenish hair with vital minerals and elements. Nu Skin also has an exclusive license in the direct selling channel for a line of oral health care products under the trademark *AP-24*. *AP-24* incorporates anti-plaque technology designed to help prevent plaque build-up. The product line includes toothpaste, mouthwash and floss. In addition, Nu Skin offers a line of sun protection products.

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**Nu Skin Product Development.** From the inception of the Company, Nu Skin's product philosophy has been: "All of the Good and None of the Bad." Nu Skin products are formulated to feature only quality, nurturing ingredients and to avoid shortcuts with unnecessary or unfriendly fillers. Nu Skin is also committed to continuously improving its evolving personal care product formulations to incorporate innovative and proven ingredients into its product line. Recent examples of new products include the *Nu Skin 180° Anti-Aging Skin Therapy* system, one of the first products to feature hydroxy acids in a comprehensive anti-aging program, and *Tru Face Line Corrector*, an innovative product that incorporates pro-collagen peptides to help soften medium to deep lines around the mouth, eyes and forehead.

For product development support in personal care, Nu Skin relies on an advisory board comprised of recognized authorities in various disciplines. Nu Skin also has entered into an agreement with Stanford University Medical Center's Department of Dermatology for directed

research and clinical trials of Nu Skin products or materials at the Nu Skin Center for Dermatological Research at Stanford University's School of Medicine. Nu Skin also utilizes its strategic relationships with vendors for access to directed research and development work.

*Nu Skin Sourcing and Production.* In order to maintain high product quality, Nu Skin acquires its ingredients and products from reliable and reputable suppliers that Nu Skin considers to be superior sources of such ingredients and products. For approximately nine years, Nu Skin has acquired ingredients and products from a supplier that currently manufactures approximately 50% of its personal care products. Nu Skin also has ongoing relationships with secondary and tertiary suppliers who supply the remaining products and ingredients. Nu Skin believes that, in the event it is unable to source any products or ingredients from its major supplier, it could produce or replace such products or substitute ingredients without great difficulty or significant increases in the cost of goods sold from its other secondary and tertiary suppliers.

During 2001, Nu Skin also established its own manufacturing facility near Shanghai, China. At this facility, the Company currently manufactures products used primarily for the Company's retail stores in China. A small portion of the output from this facility is exported to other markets.

## **Pharmanex**

*Overview.* Pharmanex currently offers approximately 50 nutritional products. Pharmanex believes that its scientifically-substantiated nutritional supplements are particularly well-suited to network marketing because the average consumer is often uneducated or confused about nutritional supplements, particularly the importance of scientific substantiation. The direct selling channel can be a more effective method than traditional retailing channels to educate consumers about the benefits of nutritional supplements and to differentiate the quality and benefits of its products from those offered by competitors. Pharmanex was an official sponsor of the Salt Lake City 2002 Olympic Games and is an official sponsor of the U.S. Olympic teams through the 2004 Athens summer games.

*Pharmanex Products.* Pharmanex's nutritional supplements currently include the LifePak line of multivitamin, mineral and phytonutrient supplements and a line of self-care nutritional supplements. Pharmanex also offers weight management and sports and fitness products, nutritious beverages and specialty products. Pharmanex has designed its nutritional products to promote healthy, active lifestyles and general well-being when used in conjunction with proper diet and exercise.

The following is a brief description of each of the nutritional product lines within the Pharmanex division:

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Multivitamin/Mineral Supplements. This product line consists of various vitamin, mineral and antioxidant supplements, including *LifePak*. The *LifePak* family of products, the core Pharmanex nutritional supplement, is designed to provide a beneficial mix of nutrients including vitamins, minerals, antioxidants and phytonutrients, which are nutrient extracts from plants. In 2001, Pharmanex introduced a reformulated anti-aging version of *LifePak*. Management believes, based on publicly available data, that *LifePak* constitutes one of the leading selling multi-vitamin and mineral supplements in the world. Sales of *LifePak* accounted for approximately 17% of the Company's total revenue in 2001. Pharmanex currently sells *LifePak* in 14 markets, including the United States, Japan and Taiwan. Pharmanex offers *LifePak* in different formulations to meet the unique needs of adults generally, women, seniors, teenagers, children and pregnant women.

Self-Care Nutritional Supplements. Pharmanex currently offers a line of self-care natural nutritional supplements (*Pharmanex Solutions*) which are nutritional products designed to meet the personalized needs of the user in the following areas:

- Energy/Stamina
- Heart Health
- Antioxidant Protection
- Relaxation
- Immune System Support
- Women's Health
- Special Needs

These self-care dietary supplements are designed to provide consumers with a specific, consistent level of the desired dosage of the important components of the supplement.

The principal products in this line include *Cholestin*, *CordyMax Cs-4*, *TeGreen 97*, *BioGinkgo 27/7* and *Bio St. John's*. Several clinical trials have demonstrated that *CordyMax Cs-4* can help reduce fatigue. *CordyMax Cs-4* is offered as a stand-alone product and in a combination product with *St. John's Wort*, a positive mood enhancer, distributed under the trademark *Bio St. John's*. *BioGinkgo 27/7* is a ginkgo biloba extract from a patented process that promotes blood circulation to the brain, arms and legs. *TeGreen 97* is a supplement that contains a concentrated level of decaffeinated green tea polyphenols, potent antioxidants found in green tea. In 2001, the Company introduced a new version of *Cholestin* into the United States market following an adverse court decision ruling that the prior red-yeast rice version of *Cholestin* could not be marketed in the United States as a nutritional supplement. The Company continues to market the red-yeast rice version of *Cholestin* outside of the United States.

Pharmanex recently broadened its Pharmanex self-care line of products to provide simple solutions to complex health issues. This line of products includes: *Prostate Formula*, a product utilizing standardized saw palmetto extract, Pharmanex's proprietary *TeGreen 97* product and other antioxidants; *Energy Formula*, a product combining three complementary ingredients, including standardized rhodiola, to offer rapid results without the use of harmful stimulants; *Cardio Formula*, a product utilizing a comprehensive formula that combines five benefits in one easy-to-take product to promote good circulatory health, prevent free radical induced damage to LDL cholesterol and other aspects necessary to maintain a good cardiovascular system; *Immune Formula*, a product combining standardized echinacea, goldenseal and Vitamin C, as well as beta-sitosterol and Arabinogalactin AG; *Hair Formula*, designed to promote and maintain healthy hair; and *Vein Formula*, designed to promote circulatory and leg vein health.

Pharmanex Body Design. *Pharmanex Body Design* was created by Pharmanex to capitalize on the sports fitness market as well as to create a presence in the large weight management market. The *Pharmanex Body Design* system, when combined with regular exercise, is one of the few systems that has

been clinically proven to reduce weight without the use of the stimulant ephedrine. *Pharmanex Body Design* consists of the following four product lines:

- **Nutrition Series:** This line of products is intended to help consumers build a better body. Products in this line include *Pharmanex Body Design* meal replacement high protein shakes, bars and soups.
- **Lean Series:** This line of products is designed for persons trying to lose weight. Products in this line include: *Crave Ease*, a product that utilizes a proprietary blend of ingredients including Glucosol to help diminish cravings for carbohydrates; fiber supplements marketed under the name *FibreNet*; *Metabotrim*, a supplement designed to assist the body's metabolism of food for maximum energy conversion; and *Diene-O-Lean*, a product containing conjugated linoleic acid, which was shown in a recent study to significantly reduce body fat mass in a 12-week period.
- **Workout Series:** This product line is designed for consumers who want to maximize their fitness levels and includes products such as *OverDrive*, a sports supplement that contains antioxidants, B vitamins and chromium chelate, and *Pharmanex High Five*, which provides nutritional support for post-exercise muscle recovery.

**Nutritious Beverages.** As part of its mission to promote a healthy lifestyle and long-term wellness, Pharmanex's *Nutri-Foods* product line includes two nutritional drinks, *Splash C* with aloe vera, a healthy beverage providing significant amounts of Vitamins C and E as well as calcium in each serving, and *Appeal*, a drink providing carbohydrates, proteins, chelated minerals, vitamins and fiber for energy.

**Specialty Products.** Pharmanex also offers a high-performance home water filtration system in certain of its Asian markets including Japan and Taiwan. In addition, Pharmanex anticipates introducing diagnostic tools to enable a consumer to monitor the impact of supplementation on body chemistry.

**Pharmanex Product Development.** Pharmanex is committed to providing high quality, standardized and substantiated nutritional supplements. Pharmanex avoids stimulants and any ingredients that are reported to have any long-term addictive or harmful effects, even if the short-term effects may be desirable. In addition, Pharmanex implements quality control processes designed to enhance its ability to keep products free from contaminants. Pharmanex believes that it is one of the few nutritional supplement companies in the United States that has a research and development program modeled after the pharmaceutical industry. Pharmanex believes that this research and development capability provides it with an important competitive advantage in the industry. Moreover, because a substantial portion of Pharmanex's research and development activities are conducted in China, it believes that it is able to conduct quality research and development work as well as initial clinical trials in higher numbers due to the significantly lower cost than would be incurred if Pharmanex conducted comparable work in the United States. Pharmanex recently consolidated all of its U.S. based research staff into a new laboratory in Provo, Utah.

Pharmanex utilizes its "6S Quality Process" in its development activities, which is designed to provide a precise, standardized, recommended dosage of each beneficial ingredient in every capsule. The 6S Quality Process generally involves the following steps:

- **Selection.** Conducting a scientific review of research and databases in connection with the selection of potential products and ingredients, and determining the authenticity, usefulness and safety standards for such potential products and ingredients.
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- **Sourcing.** Investigating potential sources, evaluating the quality of such sources and performing botanical and chemical evaluations where appropriate.
  - **Structure.** Determining the structure profile of natural compounds and active ingredients.
  - **Standardization.** Standardizing the product to at least one biologically relevant active ingredient.
  - **Safety.** Assessing safety from available research and, where necessary, performing additional tests such as microbial tests and chemical analyses for toxins and heavy metals.
  - **Substantiation.** Reviewing documented pre-clinical and clinical trials and, where necessary and appropriate, initiating studies and clinical trials sponsored by Pharmanex.

Pharmanex employs approximately 50 scientists at its dedicated research and development centers in Shanghai, China and Beijing, China and at its Provo, Utah offices. Pharmanex also has working relationships with 150 other independent scientists including an advisory board comprised of recognized authorities in various related disciplines. In addition, Pharmanex evaluates a significant number of product ideas presented to it by distributors and other outside sources. Pharmanex has established collaborative agreements with two prominent universities and research institutions in China: Shanghai Medical University and Beijing Medical University. The staffs of these institutions include scientists with expertise in natural product chemistry, biochemistry, pharmacology and clinical studies. Pharmanex's research and development center in Shanghai coordinates and validates Pharmanex's collaborative efforts with these institutions. Pharmanex also collaborates with other major universities in the United States and other countries from time to time. Some of the university research centers that Pharmanex has worked with include UCLA, the Rippe Center for Clinical Lifestyle Research, Columbia University, the University of Kansas, the University of Hong Kong School of Medicine, and Taiwan Academia Sinica.

**Pharmanex Sourcing and Production.** Substantially all of Pharmanex's nutritional supplements and ingredients, including *LifePak*, are produced or provided by third-party suppliers that Pharmanex considers to be among the best suppliers of such products and/or ingredients. Pharmanex currently relies on two unaffiliated suppliers for approximately 50% of its nutritional supplements. Pharmanex believes that, in the event it were unable to source any products or ingredients from these suppliers or its other current suppliers, it could produce or replace such products or substitute ingredients without great difficulty or significant increases in the cost of goods sold. Pharmanex also maintains an extraction and processing facility located in Huzhou, Zhejiang Province, in China, where it currently produces the extracts for its *TeGreen 97* and *Reishi* products.

## **Big Planet**

**Overview.** Big Planet offers a suite of telecommunication, Internet and other technology products. Big Planet revenue also reflects the operation of a small PEO in the United States. Big Planet seeks to position itself on the leading edge of the latest technology trends involving the

Internet, telecommunications, and other residual "connections" to the home, while utilizing the power of network marketing to introduce consumers to technology products designed to simplify and enhance their lives. The Company believes that technology, Internet and telecommunications products are compatible with its distribution system and that Big Planet attracts a younger demographic of technology oriented entrepreneurs into the Company's network of distributors. Distributors attracted by Big Planet also are increasingly purchasing Nu Skin and Pharmanex products that offer comparatively high levels of commissionable sales volume for resale and personal consumption.

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**Big Planet Products.** Big Planet has invested in local infrastructure for its Internet and operation support facilities in the United States for hosting Web pages and providing e-mail services. Big Planet also has entered into contractual relationships with several industry-leading technology companies, including Qwest Communications, I-Link, Dell, Nifty Corporation, Eastern Broadband and other key vendors, to provide convenient and reliable technology, Internet and telecommunications products and services. Distributors receive commissions based on Big Planet's gross margin on each sale of products or services, including monthly recurring service charges, or based on the commission received by Big Planet with respect to products sold directly by third-party vendors to Big Planet's customers.

**Internet Services.** Big Planet provides dial-up Internet access in the United States to its customers through a variety of separate access plans to cover the needs of a broad demographic group of consumers. Big Planet outsources Internet access in the United States through a nationwide backbone network of more than 3,000 local dial-up access sites, or "POPS," in cities throughout the United States. Big Planet also offers Internet access through third party Internet service providers in Japan and Taiwan that are co-branded with Big Planet. Big Planet currently has approximately 37,000 Internet service customers in the United States and approximately 45,000 customers in its foreign markets. Big Planet also provides a powerful yet easy-to-use tool for creating and maintaining sophisticated Web sites with optional e-commerce capabilities, which is designed for small businesses, including Big Planet representatives.

**Telecommunications.** Big Planet currently offers domestic and international long distance, paging products and services and personal 800 numbers. Big Planet offers both residential and business long distance services through its relationship with Qwest Communications in the United States, My Line in Japan, and TTN in Taiwan. Big Planet also offers enhanced communications through I-Link's "V-Link" product, which provides enhanced communications capabilities to customers including unified messaging of voicemail, e-mail and fax, and "find-me, follow me" features that allow a single phone call to ring to various different telephone devices such as cellular, office and home.

**E-Commerce.** The Big Planet online mall at bpstore.com provides an online shopping environment to Big Planet distributors and their customers. The Big Planet Mall was initially opened in September 1998 and currently offers access to a wide selection of products and services from numerous different vendors in addition to Nu Skin and Pharmanex products. Big Planet has entered into agreements that link the Big Planet Mall to Web sites of over 200 online retailers such as OnlineOfficeSupplies.com, Dell, Walmart.com and OfficeMax. Distributors earn commissions on purchases by their customers through the online mall and these affiliate sites. The Big Planet portal, my.bigplanet.com, completes the Internet community that Big Planet provides, offering customers various sources of information such as weather forecasts, stock quotes and other services.

**Electric Power.** Through a strategic relationship with Planet Electric, a company that develops technologically advanced battery systems, Big Planet provides environmentally friendly and efficient battery systems for cellular phones and bicycles. This technology is utilized in an advanced bicycle, the E-Bike, that incorporates a power-on-demand battery system for unassisted speeds up to 15 miles per hour, lightweight design and quick charging. The E-Bike was developed by Lee Iacocca's company, EV Global Motor Company.

**Big Planet Product Development.** Big Planet continues to identify and secure contractual relationships with various vendors and suppliers that will enable Big Planet to sell competitively-priced technology, Internet and telecommunications products and services through its distribution channel. In addition, Big Planet is committed to identifying and securing contractual relationships with various vendors and suppliers for a wide selection of products for sale through its online mall.

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**Big Planet Sourcing and Production.** Except for its Web hosting and Big Planet Mall, substantially all of the services and products offered by Big Planet are currently contracted or sourced from unaffiliated third parties pursuant to contractual arrangements. For example, Big Planet has contracted with Qwest Communications to provide long distance phone services and I-Link to provide voice-over-Internet services.

**Professional Employer Organization.** In 2000, the Company launched a small professional employer organization ("PEO") that assists small- to mid-sized businesses with non-revenue generating functions, namely human resource services. The business was started as part of an incubation of a concept that the Company had considered launching through the Company's distributor force as a complement to Big Planet's array of services or possibly as the basis of a separate divisional opportunity. The Company currently has no intention to launch the PEO service through its distributors in the foreseeable future. The PEO is a traditional professional employer organization currently offering services in four areas: payroll administration, benefits administration, risk management and human resources. The PEO was launched with minimal capital investment and the Company is not providing any material level of ongoing support for the PEO. At present, the PEO services 65 clients in 10 states, primarily in the Intermountain West region and generated \$24.7 million in revenue in 2001.

## Regional Profiles

For information on revenue for each of the geographic regions in which the Company operated for the years ended December 31, 1999, 2000 and 2001, reference is made to "Item 7-Management's Discussion and Analysis of Financial Condition and Results of Operations" and Note 17 to the consolidated financial statements included in Item 8.

**North Asia.** The North Asia region currently consists of the Company's markets in Japan and South Korea. Japan is the Company's largest market with approximately \$508 million in revenue in 2001. According to the World Federation of Direct Selling Associations, the direct selling channel in Japan generated sales of approximately \$28 billion of goods and services in 2000, making Japan the largest direct selling market in the world. As of December 31, 2001, virtually all of Nu Skin's personal care products and a majority of Pharmanex's nutritional supplements, including *LifePak*, the Company's leading multi-vitamin and mineral supplement, were available in the Japanese market. Big Planet has introduced various technology products into Japan including "Big Planet powered by @nifty" Internet service offered through Nifty Corporation, computers and a set top Internet device. According to the World Federation of Direct Selling Associations, the direct selling channel in South Korea generated approximately \$2.5 billion of goods and services in 2000. The Company's revenue in this market grew 47% to \$46 million in 2001. Nu Skin

currently offers the majority of its personal care products and Pharmanex currently offers approximately one-half of its nutritional supplements in South Korea.

**Southeast Asia.** The Company's Southeast Asia region currently consists of the markets in Taiwan, Hong Kong, Singapore, Thailand, the Philippines, New Zealand, Australia, Malaysia and a small retail operation in China. Taiwan is the largest market in this region with revenue of approximately \$70 million in 2001. Nu Skin Taiwan is one of the largest direct selling companies in Taiwan. According to the World Federation of Direct Selling Associations, the direct selling channel in Taiwan generated approximately \$1.2 billion in sales of goods and services in 2000. Approximately 2.9 million people, which is about 10% of Taiwan's population, are estimated to participate in direct selling. As of December 31, 2001, Nu Skin offered most of its personal care products and Pharmanex offered approximately one-half of its nutritional products in Taiwan. Big Planet currently offers Internet service in Taiwan through a third-party provider and a limited number of other Big Planet Products including telecommunication products. In 2001, the Company's affiliates in Thailand, Hong Kong, Australia and New Zealand posted increased revenue. Revenue in Thailand, Hong Kong, and Australia/New Zealand

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grew by 45%, 18% and 25%, respectively. The Company attributes this growth to good local management in these markets, motivated and productive distributors and international expansion into markets such as Singapore.

In December of 2000, the Company commenced operations in Singapore. The opening of this market was very successful as Singapore generated more than \$33 million in sales during its first full year of operations. The Company offers 77 Nu Skin products and three Pharmanex products in this market. In addition, the Company expanded operations into Malaysia in November 2001. Malaysian law requires the Company's Malaysian affiliate to be 70% locally owned. The Company has entered into a Shareholders Agreement with its local partners that allows Nu Skin to manage the day to day operations of the local affiliate, with veto control over all major decisions. In addition, the Company has entered into a Distribution Agreement pursuant to which it sells products to the local affiliate as well as a License Agreement and a Trademark License Agreement pursuant to which the Company receives license fees based on total sales in this market.

The Company currently operates 32 retail branch outlets in China. The Company sells its Scion line of personal care products through these retail branches as well as various third party personal care products. The Company has not yet introduced its premium Nu Skin line of products into this market. Because direct sales activities that use non-employees are currently restricted in China, Nu Skin has established the retail presence as part of the Company's development plans for China. The Company plans to significantly increase the number of stores over the next several years and plans to introduce its global distribution plan into China at such time as the restrictions on direct selling are lifted. It is currently anticipated that these restrictions may be lifted by December 2004.

**North America.** The North America region consists of the Company's markets in the United States and Canada. According to the World Federation of Direct Selling Associations, the direct selling channel in the United States generated sales of approximately \$26 billion of goods and services in 2000, making the United States the second largest direct selling market in the world. In 2001, the Company generated approximately \$149 million in revenue in the United States. Substantially all of Nu Skin's personal care products, Pharmanex's nutritional supplements and Big Planet's products and services are available in the United States.

**Other Markets.** The Other Markets region currently consists of the markets in Europe, Central and South America and Brazil. The Company currently distributes products in 17 countries in Europe. These countries are: the United Kingdom, Ireland, France, Germany, Belgium, Netherlands, Luxembourg, Spain, Portugal, Italy, Austria, Poland, Sweden, Iceland, Norway, Finland and Denmark. The market in Europe experienced healthy growth in 2001, with revenues increasing by 38% to \$23 million. The majority of Nu Skin's personal care products are sold in Europe. Pharmanex also has introduced several of its products in the European market. The Company also distributes a limited number of Big Planet products including Global Web Pages. In the first quarter of 2002, the Company also completed an acquisition of a controlling interest in a small direct selling company in Poland. The Company believes that the direct selling model utilized by this acquired company can be developed into a model that will help the Company compete in less developed economies and expand its operations in Eastern Europe, which the Company believes will be among the fastest growing direct selling regions in the world.

The Company has operations in Brazil, Mexico and Guatemala. According to the World Federation of Direct Selling Associations, the direct selling channel in Brazil generated sales of approximately \$2.9 billion of goods and services in 2000. Approximately 25% of Nu Skin's personal care products have been introduced in Brazil, along with 15 locally produced products. Neither Big Planet nor Pharmanex has introduced any of its products in Brazil.

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## Distribution System

**Overview of Distribution System.** The foundation of the Company's sales philosophy and distribution system is network marketing. Distributors purchase products for resale to consumers and for personal consumption. Pursuant to the Company's Global Compensation Plan, the Company currently sells products through independent distributors who are not the Company's employees. Because of the nature of Big Planet's products and services, distributors buy a limited number of Big Planet products for resale but primarily act as independent sales representatives of Big Planet and receive a commission on product sales directly from the Company.

The Company's network marketing program differs from many other network marketing programs in several respects.

- The Global Compensation Plan is among the most financially rewarding plans offered to distributors by network marketing companies and can result in commissions to distributors aggregating up to 58% of a personal care or nutritional product's wholesale price. On a global basis, commissions have averaged approximately 40 to 43% of revenue from commissionable sales over the last eight years.
- The Company was among the first to allow distributors to be compensated on a unified, global basis for product sales of downline-sponsored distributors around the world, and the Company believes it was the first major network marketing company to allow distributors to be fully compensated for product sales of downline-sponsored distributors globally across all operating divisions.
- The Company's order and fulfillment systems eliminate the need for distributors to carry significant levels of inventory by shipping product

orders directly to the customer.

- The Company's technology and Internet investment and initiatives provide its distributors the opportunity to sell products through personalized Web pages and provide useful tools to help distributors better manage their business.

Network marketing is an effective vehicle to distribute the Company's products because:

- Consumers can learn about products in person from distributors, which the Company believes is more effective for premium-quality products than using television and print advertisements;
- Direct sales allow for actual product testing by potential customers;
- There is greater opportunity for distributor and customer testimonials; and
- As compared to other distribution methods, distributors can give customers higher levels of service and attention by, among other things, following up on sales to ensure proper product usage and customer satisfaction and to encourage repeat purchases.

The Company's revenue depends directly upon the number and productivity of its distributors. Growth in sales volume requires an increase in the productivity of distributors and/or growth in the total number of distributors. As with other direct selling companies, the Company experiences significant turnover among its distributors. The Company estimates that, as of December 31, 2001, nearly 400 distributorships worldwide maintained Team Elite or Blue Diamond executive distributor levels, which are the Company's two highest executive distributor levels and, together with their extensive downline

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networks, account for substantially all of the Company's revenue. Consequently, the loss of a high-level distributor, together with a group of leading distributors in such distributor's downline network, or the loss of a significant number of distributors for any reason, could harm the Company's business.

*Sponsoring.* The Company relies on its distributors to sponsor new distributors. While the Company provides, at cost, product samples, brochures, magazines and other sales materials, distributors are primarily responsible for locating and educating new distributors with respect to products, the Global Compensation Plan and how to build a successful distributorship.

The sponsoring of new distributors creates multiple levels in a network marketing structure. Persons that a distributor sponsors are referred to as "downline" or "sponsored" distributors. If downline distributors also sponsor new distributors, they create additional levels in the structure, but their downline distributors remain in the same downline network as their original sponsoring distributor.

Sponsoring activities are not required of distributors and they receive no compensation for sponsoring. However, because of the financial incentives provided to those who succeed in building a distributor network that consumes and resells products, the Company believes that most of its distributors attempt, with varying degrees of effort and success, to sponsor additional distributors. People are often attracted to become distributors after using the Company's products and becoming regular customers. Once a person becomes a distributor, he or she is able to purchase products directly from the Company at wholesale prices. The distributor is also entitled to sponsor other distributors in order to build a network of distributors and product users. A potential distributor must enter into a standard distributor agreement, which obligates the distributor to abide by the Company's policies and procedures.

*Global Compensation Plan.* The Company believes that one of its key competitive advantages is the Company's Global Compensation Plan. Distributors receive higher levels of commissions as they advance under the Global Compensation Plan. The Global Compensation Plan is seamlessly integrated across all markets in which distributors sell products, allowing distributors to receive commissions for global products sales, rather than merely local product sales. The Company has also enhanced the Global Compensation Plan to allow distributors to develop a seamless global network of downline distributors across any or all of the Company's product divisions. Management believes the Company was the first major network marketing company to allow distributors to be fully compensated for global sales of downline-sponsored distributors across separately-branded product divisions.

The Company's distributors benefit significantly from receiving commissions at the same rate for sales in foreign countries as for sales in their respective home countries and across product divisions. In addition, distributors are not required to establish new distributorships or requalify for higher levels of commissions within each new country in which they begin to operate, which is frequently the case under the compensation plans of many of the Company's competitors. Under the Global Compensation Plan, distributors are paid consolidated monthly commissions in the distributor's home country, in local currency, for product sales in that distributor's global downline distributor network across all product divisions.

*High Level of Distributor Incentives.* Based upon management's knowledge of competitors' distributor compensation plans, management believes that the Global Compensation Plan is among the most financially rewarding plans offered to distributors by network marketing companies. Currently, there are two fundamental ways in which distributors can earn money:

- Through retail markups on sales of products purchased by distributors at wholesale, and
- Through a series of commissions on product sales.

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Commissions on personal care and nutritional products can result in commissions aggregating up to 58% of a product's wholesale price. On a global basis, commissions have averaged approximately 40 to 43% of revenue from commissionable sales.

Each of the Company's products carries a specified number of sales volume points. Commissions are based on total personal and group sales volume points per month. Sales volume points are essentially based upon a product's wholesale cost, net of any point-of-sales taxes. As a distributor's business expands and as he or she successfully sponsors other distributors into the business who in turn expand their own business, he or she receives a higher percentage of commissions.



Once a distributor becomes an executive-level distributor, the distributor can begin to take full advantage of the benefits of commission payments on personal and group sales volume. To achieve executive status, a distributor must achieve specified personal and group sales volumes for a required period of time. To maintain executive status, a distributor must generally also maintain specified personal and group sales volumes. An executive's commissions can increase substantially as downline distributors achieve executive status. In determining commissions, the number of levels of downline distributors included in an executive's commissionable group increases as the number of executive distributorships directly below the executive increases.

On a monthly basis, the Company evaluates distributor requests for exceptions to the terms and conditions of the Global Compensation Plan. While the general policy is to discourage exceptions, the Company believes that the flexibility to grant such exceptions is critical in retaining distributor loyalty and dedication.

As of the end of each of the years indicated below, the Company had the following number of executive distributors in the referenced regions:

<b>Region</b>	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
North Asia	16,654	17,311	14,601	14,968	16,891
Southeast Asia	5,642	5,091	3,419	3,044	4,540
North America (1)	—	—	2,547	2,632	2,419
Other Markets	<u>393</u>	<u>379</u>	<u>438</u>	<u>737</u>	<u>989</u>
Total	<u>22,689</u>	<u>22,781</u>	<u>21,005</u>	<u>21,381</u>	<u>24,839</u>

(1) North America was not part of the Company's operations until March 1999 when the Company terminated its License Agreement with a private affiliate.

*Distributor Support.* The Company is committed to providing high-level support services tailored to the needs of its distributors in each market. The Company attempts to meet the needs and build the loyalty of distributors by providing personalized distributor services, a support staff that assists distributors as they build networks of downline distributors and a liberal product return policy. Because many distributors have only a limited number of hours each week to concentrate on their business, the

Company believes that maximizing a distributor's efforts by providing effective distributor support has been and will continue to be important to the Company's success.

Through training meetings, annual conventions, distributor focus groups, regular telephone conference calls and other personal contracts with distributors, the Company seeks to understand and satisfy the needs of its distributors. The Company provides walk-in, telephonic and computerized product fulfillment and tracking services that result in user-friendly, timely product distribution. Several walk-in centers maintain meeting rooms which distributors may utilize in training and sponsoring activities. In addition, the Company is committed to evaluating new ideas in technology and services that it can provide to distributors, such as automatic product reordering. The Company currently utilizes voicemail, teleconferencing, fax and Internet services to provide Company and product information and ordering and to handle group and personal sales volume inquiries.

*Technology and Internet Initiatives.* The Company believes that the Internet has become an increasingly important business factor as more and more consumers purchase products over the Internet as opposed to traditional retail and direct sales channels. As a result, the Company has committed significant resources to enhancing its e-commerce capabilities and the abilities of its distributors to take advantage of the Internet. In Japan, the Company's largest market, the Company set up an Internet order process in 1999. More than 150,000 Japanese distributors have registered to use such service and more than 20% of all sales in Japan occur over the Internet. The Company maintains Web sites in each of its major markets. In order to enhance its Internet and e-commerce capabilities and to allow distributors and retail customers to purchase products from all divisions in a single shopping experience, the Company launched new, enhanced divisional Web sites in the United States in the first quarter of 2001. In addition, the Company introduced a Global Web Page that allows a distributor to have a personalized Web site through which he or she can sell products in many of the Company's more than 30 global markets.

In 2000 and 2001, Pharmanex and Nu Skin also introduced e-commerce initiatives in the United States and Japan. These initiatives allow distributors to acquire a personalized Pharmanex or Nu Skin Web site in these markets, which provides distributors the ability to channel customers to the personalized Web site to gather information on Pharmanex and Nu Skin products and to purchase products. In Japan nearly 50,000 personalized Web sites have been purchased and customized by distributors.

*Rules Affecting Distributors.* The Company's standard distributor agreement, policies and procedures and compensation plan contained in every starter and/or introductory kit outline the scope of permissible distributor marketing activities. The distributor rules and guidelines are designed to provide distributors with maximum flexibility and opportunity within the bounds of governmental regulations regarding network marketing and prudent business policies and procedures. Distributors are independent contractors and are expressly prohibited from representing themselves as agents or employees. The Company requires distributors to present products and business opportunities ethically and professionally. Distributors further agree that their presentations to customers must be consistent with, and limited to, the product claims and representations made in literature distributed by the Company. Under most regulations governing nutritional supplements, no medical claims may be made regarding the products, nor may distributors prescribe any particular product as suitable for any specific ailment. Even though sponsoring activities can be conducted in many countries, distributors may not conduct marketing activities outside of countries in which the Company currently conducts business and further may not export for sale products from one country to another.

Distributors must represent to the Company that their receipt of commissions is based on retail sales and substantial personal sales efforts. Exhibiting commission statements or checks is prohibited. The Company must produce or pre-approve all sales aids used by distributors such as videotapes, audiotapes, brochures, promotional clothing and other miscellaneous items.

Distributors may not use any form of media advertising to promote products. Products may be promoted only by personal contact or by literature produced or approved by the Company. Generic business opportunity advertisements, without using the Company's name, may be placed in accordance with required guidelines in some countries. The Company's logos and names may not be permanently displayed at any location. Distributors may not use the Company's trademarks or other intellectual property without the Company's consent.

Except in China, products generally may not be sold, and the Company's business opportunities may not be promoted, in traditional retail environments. Pharmanex has made an exception to this rule and has allowed its products to be sold in independently owned pharmacies and drug stores meeting specified requirements. Additionally, distributors may not sell at conventions, trade shows, flea markets, swap meets and similar events. Distributors who own or are employed by a service-related business such as a doctor's office, hair salon or health club, may make products available to regular customers as long as products are not displayed visibly to the general public in such a way as to attract the general public into the establishment to purchase products.

In order to qualify for commission bonuses, distributors must satisfy certain requirements. Some of these requirements include:

- Achieving at least 100 points, which is approximately \$100, in personal sales volume,
- Documenting retail sales or customer connections to established levels of retail customers, and
- Selling and/or consuming at least 80% of personal sales volume.

The Company systematically reviews alleged reports of distributor misbehavior. If the Company determines that a distributor has violated any of the distributor policies or procedures, the Company may terminate the distributor's rights completely. Alternatively, the Company may impose sanctions such as warnings, probation, withdrawal or denial of an award, suspension of privileges of a distributorship, fines, withholding commissions until specified conditions are satisfied or other appropriate injunctive relief. A distributor may voluntarily terminate his/her distributorship at any time.

*Payment.* Distributors generally pay for products prior to shipment. Accordingly, the Company carries minimal accounts receivable. Distributors typically pay for products in cash, by wire transfer and by credit card. Cash, which represents a significant portion of all payments, is received by order takers in the distribution centers when orders are personally picked up by a distributor.

*Sales Aids.* The Company provides an assortment of sales aids to facilitate the sales of its products. In dollar terms, the largest sales aid is the Company's starter kit which includes materials such as product brochures, training materials and order forms. Sales aids include videotapes, audiotapes, brochures, promotional clothing and other miscellaneous items to help create consumer awareness of the Company and its products. Sales aids are priced at the Company's approximate cost, and distributors do not receive commissions on purchases of sales aids.

*Product Guarantees.* The Company believes that it is among the most consumer-protective companies in the direct selling industry. For 30 days from the date of purchase, the Company's product return policy allows a retail purchaser to return any product to the distributor through whom the product was purchased for a full refund. After 30 days from the date of purchase, the return privilege is in the discretion of the distributor. Because distributors may return unused and resalable products to the Company for a refund of 90% of the purchase price for one year, they are encouraged to provide customer

refunds beyond 30 days. In addition, the Company's product return policy is an important tool used by distributors in developing a retail customer base. The Company's experience with actual product returns has averaged less than 5% of annual revenue through 2001. Because many of Big Planet's products and services are provided directly to consumers by third-party vendors, the same 30-day return privilege does not apply to products purchased by consumers from such vendors unless such vendors otherwise agree.

## Competition

***Nu Skin and Pharmanex Products.*** The markets for Nu Skin and Pharmanex products are large and intensely competitive. The Company competes directly with numerous companies that manufacture and market personal care and nutritional products in each of the Company's product categories and product lines. The Company competes with other companies in the personal care and nutritional products industry by emphasizing the innovation, value and premium-quality of its products and the convenience of the Company's distribution system. Many of the Company's competitors have much greater name recognition and financial resources than the Company. Large pharmaceutical companies are increasingly entering into the nutritional supplement market. In addition, personal care and nutritional products can be purchased in a wide variety of channels of distribution. While the Company believes that consumers appreciate the convenience of ordering products from home through a sales person or through a catalog, the buying habits of many consumers accustomed to purchasing products through traditional retail channels are difficult to change. The Company's product offerings in each product category are also relatively small compared to the wide variety of products offered by many other personal care and nutritional product companies. Nu Skin's and Pharmanex's businesses and results of operations may be harmed by market conditions and competition in the future.

***Big Planet Products and Services.*** The markets for Big Planet's products and services are similarly large and intensely competitive. Big Planet's online shopping services also compete with other channels of distribution, including catalog sales and traditional retail sales. Many of Big Planet's competitors have much greater name recognition and financial resources than Big Planet. The market for technology and telecommunication products is very price sensitive, and many products are offered by competitors with little or no margin. Big Planet may be at a disadvantage because it must rely on its ability to acquire quality and reliable services from vendors at prices that allow its distributors to sell services at competitive prices and still generate attractive commissions. Big Planet attempts to compete with other companies in this market through offering convenient access to a wide variety of technology, Internet and telecommunications services and products at competitive prices with a high level of customer service. Big Planet's business and results of operations may be harmed by the intense competition in the technology, Internet and telecommunications market.

**Network Marketing Companies.** The Company also competes with other direct selling organizations, some of which have a longer operating history and higher visibility, name recognition and financial resources. The leading direct selling companies in the Company's existing markets are Avon and Alticor (Amway). The Company competes for new distributors on the strength of its multiple business opportunities, product offerings, Global Compensation Plan, management strength and appeal of the Company's international operations. In order to successfully compete in this market and attract and retain distributors, the Company must maintain the attractiveness of its business opportunities to its distributors. There can be no assurance that the Company will be able to successfully do this.

## Intellectual Property

The Company's major trademarks are registered in the United States and in many other countries, and the Company considers its trademark protection to be very important to its business. The major trademarks include the following: *Nu Skin*, *Pharmanex*, *Big Planet* and *LifePak*. The Company

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generally registers its important trademarks in the United States and each market where the Company operates or has plans to operate. In addition, a number of the Company's products are based on proprietary technologies and formulations, some of which are patented. The Company also relies on trade secret protection to protect its proprietary formulas and know-how.

## Government Regulation

**Direct Selling Activities.** Direct selling activities are regulated by various federal, state and local governmental agencies in the United States and foreign countries. These laws and regulations are generally intended to prevent fraudulent or deceptive schemes, often referred to as "pyramid," "money games" or "chain sales" schemes, that compensate participants for recruiting additional participants irrespective of product sales, that promise quick rewards for little or no effort, require high entry costs, use high pressure recruiting methods and/or do not involve legitimate products. The laws and regulations in the Company's current markets often:

- Impose cancellation/product return, inventory buy-backs and cooling-off rights for consumers and distributors;
- Require the Company or its distributors to register with governmental agencies;
- Impose reporting requirements; and/or
- Impose upon the Company requirements, such as requiring distributors to maintain levels of retail sales to qualify to receive commissions, to ensure that distributors are being compensated for sales of products and not for recruiting new distributors.

The extent and provisions of these laws, however, vary from country to country and can impose significant restrictions and limitations on the Company's business operations. For example, in South Korea, the Company cannot pay more than 35% of its revenue to its distributors in any given month. In Germany, the German Commercial Code prohibits using direct salespersons to promote multi-level marketing arrangements by making the inducement to purchase products for resale illegal. Accordingly, the Company, through its German subsidiary, sells products to consumers through a "commercial agent" rather than a distributor. As a result, in Germany the Company is subject to potential tax and social insurance liability as well as agency laws governing the termination of commercial agents. The European Commission is currently working on a framework for new legislation for consumer protection, which may harmonize the legal environment for consumer protection in Europe.

Based on the Company's research conducted in opening existing markets, the nature and scope of inquiries from government regulatory authorities, and the Company's history of operations in such markets to date, the Company believes that its method of distribution is in compliance in all material respects with the laws and regulations relating to direct selling activities of the countries in which the Company currently operates. China currently has laws in place that prohibit the Company from conducting business in such market using the Company's existing business model. As a condition of its accession to the WTO, China indicated an intention to lift this temporary ban in 2004. There can be no assurance, however, that the Company will be allowed to conduct business in new markets or continue to conduct business in each of its existing markets. See "Risk Factors - Laws and regulations may prohibit or severely restrict our direct sales efforts and cause our sales and profitability to decline" for additional discussion of the regulatory environment for network marketing.

**Regulation of Nu Skin and Pharmanex Products.** Nu Skin's and Pharmanex's products and related promotional and marketing activities are subject to extensive governmental regulation by numerous

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domestic and foreign governmental agencies and authorities. These include the Food and Drug Administration (the "FDA"), the Federal Trade Commission (the "FTC"), the Consumer Product Safety Commission, and the United States Department of Agriculture in the United States, State Attorneys General and other state regulatory agencies, and the Ministry of Health, Labor and Welfare in Japan.

The Company's markets have varied regulations concerning product formulation, labeling, packaging and importation. These laws and regulations often require the Company to, among other things:

- Reformulate products for a specific market to meet the specific product formulation laws of such country;
- Conform product labeling to the regulations in each country; and
- Register or qualify products with the applicable government authority or obtain necessary approvals or file necessary notifications for the marketing of such products.

For example, in Japan, the Ministry of Health, Labor and Welfare requires the Company to have an import business license and to register each personal care product imported into Japan. The Company must also reformulate many products to satisfy other Ministry of Health, Labor and Welfare regulations. In Taiwan, all "medicated" cosmetic and pharmaceutical products require registration. These regulations can limit the Company's ability to import products into the Company's markets and can delay introductions of new products into markets as the Company goes through the registration and approval process for such products. The sale of cosmetic products is regulated in the European Union member states under the European Union Cosmetics Directive, which requires a uniform application for foreign companies making personal care product sales.

Pharmanex's products are strictly regulated in the Company's markets. These markets have varied regulations that apply to and distinguish nutritional health supplements from "drugs" or "pharmaceutical products." For example, the Company's products are regulated by the FDA of the United States under the Federal Food, Drug and Cosmetic Act. The Federal Food, Drug and Cosmetic Act has been amended several times with respect to nutritional supplements, most recently by the Nutrition Labeling and Education Act and the Dietary Supplement Health and Education Act. The Dietary Supplement Health and Education Act establishes rules for determining whether a product is a dietary supplement. Under this statute, dietary supplements are regulated more like foods than drugs, are not subject to the food additive provisions of the law, and are generally not required to obtain regulatory approval prior to being introduced to the market. None of this infringes, however, upon the FDA's power to remove an unsafe substance from the market. In the event a product, or an ingredient in a product, is classified as a drug or pharmaceutical product in any market, the Company will generally not be able to distribute that product in such market through the Company's distribution channel because of strict restrictions applicable to drug and pharmaceutical products. For example, certain of Pharmanex's nutritional products, such as *BioGinkgo 27/7* and *St. John's Wort*, may not be marketed through the direct sales channel in Taiwan and certain European markets, such as Germany and Austria. The European Parliament recently voted in favor of adopting a Directive on Food Supplements, which may harmonize this area of legislation in Europe.

Many of the Company's existing markets also regulate product claims and advertising. These laws regulate the types of claims and representations that can be made regarding the efficacy of products, particularly dietary supplements. Accordingly, these regulations can limit the ability of the Company and its distributors to inform consumers of the full benefits of the Company's products. This can make it difficult to adequately distinguish the Company's products from lower-price products of poor quality that do not offer the same level of benefits. In Japan, the Company and its distributors are severely restricted in making any claims concerning health benefits of the Company's nutritional supplements. In the United

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States, the Company is unable to make any claim that any of the Company's nutritional supplements will diagnose, cure, mitigate, treat or prevent disease. The Dietary Supplement Health and Education Act, however, permits substantiated, truthful and non-misleading statements of nutritional support to be made in labeling, such as statements describing general well being resulting from consumption of a dietary ingredient or the role of a nutrient or dietary ingredient in affecting or maintaining a structure or a function of the body.

The FTC similarly requires that product claims be substantiated. In 1993, Nu Skin International, Inc., a current subsidiary of the Company ("Nu Skin International"), and three of its distributors entered into a consent decree with the FTC with respect to its investigation of distributors' product claims and distributor practices. As part of the settlement of this investigation, Nu Skin International paid approximately \$1.0 million to the FTC. In August 1997, Nu Skin International reached a settlement with the FTC with respect to product claims and its compliance with the 1994 consent decree, pursuant to which settlement Nu Skin International paid \$1.5 million to the FTC.

The Company and its vendors are also subject to laws and regulations governing the manufacturing of the Company's products. For example, in the United States the FDA regulations establish Good Manufacturing Practices for foods and drugs. The FDA has also proposed detailed Good Manufacturing Practices for nutritional supplements. The dietary supplement industry is working closely with the FDA to ensure the implementation of such quality assurance processes in the near future.

To date, the Company has not experienced any difficulty maintaining its import licenses but has experienced complications regarding food and drug regulations for nutritional products. Many of the Company's products have required reformulation to comply with local requirements. In addition, in Europe there is no uniform legislation governing the manufacture and sale of nutritional products. Complex legislation governing the manufacturing and sale of nutritional products in this market has inhibited the Company's ability to gain quick access to this market for the Company's nutritional supplements. Recently, the Company has started to expand its nutritional product offering into more European markets by either reformulating existing products or developing new products to comply with local regulations.

**Big Planet Regulation.** Big Planet's telecommunications products and services are subject to varying degrees of telecommunications regulation in each of the jurisdictions in the United States in which Big Planet operates. In the United States, domestic telecommunications service and international communications services in the United States are subject to the provisions of the Communications Act, as amended by the Telecommunications Act of 1996, and Federal Communications Commission (the "FCC") regulations and rules adopted thereunder, as well as applicable laws and regulations of the various states. Big Planet currently offers long distance and cellular services through master agency relationships with third-party providers. Under such relationships, the third parties are the regulated provider of such services and Big Planet is not subject to the jurisdiction of state or federal telecommunications regulatory bodies in connection with the offering of such products and services. In the United States, Internet service providers are generally considered "enhanced service providers" and are exempt from federal and state regulations governing common carriers. Big Planet currently provides enhanced voice and data communication services through a relationship with I-Link. Although these services are currently not regulated by state or federal telecommunications agencies, the FCC is conducting an inquiry into the applicability of traditional telecommunications regulations of such services. Currently, the I-Link services can be considered "enhanced services" exempt from federal and state regulations governing common carriers. Notwithstanding the foregoing, Big Planet is currently authorized on both a federal and state level (in substantially all 50 states) to provide traditional long distance telecommunications service. To the extent Big Planet elects to become a reseller of long distance services or the provision of enhanced voice and data communication services becomes subject to

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regulations, Big Planet may become subject to rules and regulations that may impose material burdens on Big Planet's operations or financial performance.

Big Planet has contracted with third party service providers in Japan and Taiwan to provide Internet services and telecommunication services for distributors and their customers. In overseas markets, telecommunications and Internet services are subject to the regulatory regimes in each

of the countries in which Big Planet seeks to conduct business. Local regulations range from permissive to restrictive, depending upon the country. Many overseas telecommunications markets are undergoing dramatic changes as a result of privatization and deregulation. Despite recent trends toward deregulation, some countries do not currently permit competition in the provision of public switched voice telecommunications services, which will limit Big Planet's and other similarly situated United States-based carriers' ability to provide telecommunications services in some markets.

The PEO operated by the Company is also subject to various regulations on both a national and local level. The PEO interfaces with various governmental entities including the Occupational Safety and Health Administration, the Department of Labor, the Immigration and Naturalization Service and the Internal Revenue Service relating to the services provided by the PEO.

**Other Regulatory Issues.** As a United States entity operating through subsidiaries in foreign jurisdictions, the Company is subject to foreign exchange control and transfer pricing laws that regulate the flow of funds between the Company's subsidiaries and the Company for product purchases, management services and contractual obligations such as the payment of distributor commissions. The Company believes that it is operating in compliance with all applicable foreign exchange control and transfer pricing laws. However, there can be no assurance that the Company will continue to be found to be operating in compliance with foreign exchange control and transfer pricing laws, or that such laws will not be modified, which, as a result, may require changes in the Company's operating procedures.

As is the case with most companies that operate in the Company's product categories, the Company, from time to time, receives inquiries from government regulatory authorities regarding the nature of the Company's business and other issues such as compliance with local direct selling, customs, taxation, foreign exchange control, securities and other laws. In addition, the Company, from time to time, also receives inquiries from the FTC concerning its compliance with its consent decree with the FTC. Although to date none of these inquiries has resulted in a finding materially adverse to the Company, adverse publicity resulting from inquiries into the Company's operations by United States and state government agencies in the early 1990s, stemming in part from alleged inappropriate product and earnings claims by distributors, and in the mid 1990s resulting from adverse media attention in South Korea, harmed the Company's business and results of operations. Any findings adverse to the Company in these inquiries or any adverse publicity resulting from such inquiries could harm the Company's business and results of operations.

Based on the Company's experience and research and the nature and scope of inquiries from government regulatory authorities, the Company believes that it is in material compliance with all regulations applicable to the Company. Despite this belief, the Company could be found not to be in material compliance with existing regulations as a result of, among other things, the considerable interpretative and enforcement discretion given to regulators or misconduct by independent distributors.

Any assertion or determination that the Company or its distributors are not in compliance with existing laws or regulations could harm the Company's business or results of operations. In addition, in any country or jurisdiction, the adoption of new laws or regulations or changes in the interpretation of existing laws or regulations could generate negative publicity and/or harm the Company's business and results of operations. Government agencies and courts in any of the Company's markets could use their

discretionary powers and authority to interpret and apply laws in a manner that would limit the Company's ability to operate or otherwise harm the Company's business. The Company cannot determine the effect, if any, that future governmental regulations or administrative orders may have on its business and results of operations. Governmental regulations in countries where the Company plans to commence or expand operations may prevent, delay or limit market entry of certain products or require the reformulation of such products. Regulatory action, whether or not it results in a final determination adverse to the Company, has the potential to create negative publicity, with detrimental effects on the motivation and recruitment of distributors and, consequently, on the Company's sales and earnings.

## Employees

As of December 31, 2001, the Company had approximately 3,900 full-time and part-time employees, approximately 500 of which are employed sales representatives in the Company's China operations. None of the employees is represented by a union or other collective bargaining group. The Company believes its relationship with its employees is good, and does not currently foresee a shortage in qualified personnel needed to operate the Company's business.

**Note Regarding Forward-Looking Statements.** Certain statements made in this filing under the caption "Item 1- Business" are "forward-looking statements" within the meaning of Section 21E of the Securities Exchange Act of 1934, as amended (the "Exchange Act"). In addition, when used in this Report the words or phrases "will likely result," "expects," "intends," "will continue," "is anticipated," "estimates," "projects," "management believes," "the Company believes" and similar expressions are intended to identify "forward-looking statements" within the meaning of the Exchange Act.

Forward-looking statements include plans and objectives of management for future operations, including plans and objectives relating to the Company's products and future economic performance in countries where it operates. These forward-looking statements involve risks and uncertainties and are based on certain assumptions that may not be realized. Actual results and outcomes may differ materially from those discussed or anticipated. The Company assumes no responsibility or obligation to update these statements to reflect any changes. The forward-looking statements and associated risks set forth herein relate to, among other things:

- Nu Skin's belief that it could produce or source its personal care products from other suppliers without great difficulty;
- Pharmanex's belief that it could replace its primary suppliers without great difficulty;
- Big Planet's plans to identify and secure contractual relationships with vendors and suppliers for the Big Planet Mall;
- The Company's plans to significantly increase the number of its stores in China and the anticipation that the ban on direct selling activities will be lifted by December 2004;
- The belief that the direct selling model utilized by a recently acquired company can be developed into a model that will help the Company compete in third world markets;
- The belief that Eastern Europe will be among the fastest growing direct selling regions in the world; and

- The Company's belief that it is in material compliance with applicable laws and regulations.

These and other forward-looking statements are subject to various risks and uncertainties including those described below under "Risk Factors" and in "Item 7-Management's Discussion and Analysis of Financial Condition and Results of Operations."

## **Risk Factors**

The Company faces a number of substantial risks. The following risks and information should be considered in connection with the other information contained in this filing. The Securities and Exchange Commission (the "SEC") has issued regulations which require these risk factors be presented in first person narrative and other "plain English" styles required by the SEC. The purpose of these requirements is to make the risk factors easier to understand and more clear. Terms used in these risk factors such as "we," "us" and "our" refer to the Company. These risk factors should be read together with "Item 7-Management's Discussion and Analysis of Financial Condition and Results of Operations."

### **Currency exchange rate fluctuations could lower our revenue and net income.**

We recognize most of our revenue in non-United States markets using local currencies. We purchase inventory primarily in the United States and in U.S. dollars. In preparing our financial statements, we translate revenue and expenses in these countries from their local currencies into U.S. dollars using weighted average exchange rates. In 2001, the Yen significantly weakened, which adversely affected operating results on a U.S. dollar reported basis. If the Yen does not strengthen from its current level, 2002 operating results could similarly be adversely affected. Given the uncertainty of exchange rate fluctuations, however, we cannot estimate the effect these fluctuations may have upon future business, product pricing, results of operations or financial condition. However, because nearly all revenue is realized in local currencies and the majority of cost of sales is denominated in U.S. dollars, gross profits will be positively affected by a weakening in the U.S. dollar and will be negatively affected by a strengthening of the U.S. dollar. Although we attempt to reduce exposure to short-term exchange rate fluctuations by using foreign currency exchange contracts, we cannot be certain these contracts or any other hedging activity will effectively reduce exchange rate exposure.

### **Because our Japanese operations account for over 50% of our business, any adverse changes in our business operations in Japan would harm our business.**

Various factors could adversely affect our business in Japan including any worsening of economic conditions. Economic conditions in Japan have been poor in recent years and may not improve or may worsen. In 1999 and 2000, our revenue and net income decreased in part because of economic conditions in Japan and stagnant consumer confidence. Continued or worsening economic and political conditions in Japan could reduce our revenue and net income. In addition, operations in Japan face significant competition from existing and new competitors. Our operations would also be harmed if our planned initiatives fail to generate continued interest and enthusiasm among our distributors in this market.

### **If the number or productivity of independent distributors does not increase, our revenue will not increase.**

To increase revenue, we must increase the number of and/or the productivity of our distributors. We can provide no assurances that distributor numbers will increase or remain constant or that productivity will increase. Although we experienced a healthy increase in executive and active distributors in 2001, we have experienced declines in both distributors and executive distributors in the past. The number of active and executive distributors may not increase and could decline in the future. Distributors may terminate their services at any time, and, like most direct selling companies, there is high turnover among

distributors from year to year. We cannot accurately predict how the number and productivity of distributors may fluctuate because we primarily rely upon existing distributors to sponsor and train new distributors and to motivate new and existing distributors. Operating results could be adversely affected if our existing and new business opportunities and products do not generate sufficient economic incentive or interest to retain existing distributors and attract new distributors. The number and productivity of distributors also depends on several additional factors, including:

- Adverse publicity regarding us, our products, our distribution channel or our competitors;
- The public's perception of our products and their ingredients;
- The public's perception of our distributors and direct selling businesses in general; and
- General economic and business conditions.

In addition, we may face "saturation" or maturity levels in a given country or market. This is of particular concern in Taiwan, where industry sources have estimated that up to 10% of the population is already involved in some form of direct selling. The maturity of certain of our markets could also affect our ability to attract and retain distributors in those markets.

### **If we are unable to open new markets we would have difficulty achieving our long-term objectives.**

We experienced growth in revenue in 2001 due in part to the successful expansion of our operations into Singapore and Malaysia. We continue to work on opening other markets such as China and markets in Eastern Europe. Direct selling in China is currently prohibited. If China fails to lift the ban by the end of 2004 as currently anticipated or if we are unable to introduce or satisfactorily modify our existing direct sales model, this could significantly limit our ability to grow our business in China. In addition, we have struggled to operate profitably in most of our developing country markets under our current marketing and compensation plan. If we are unable to successfully adjust our existing plan for these

developing markets or develop a new model for such markets, our ability to successfully expand operations into Eastern Europe and other developing markets would be limited.

**Adverse publicity concerning our business, marketing plan or products could harm our business.**

The size of our distribution force and the results of our operations can be particularly impacted by adverse publicity regarding us, the legality of our distribution system, our products, and the actions of our distributors. Recently, there have been various adverse articles in the press concerning the use of dietary supplements by athletes and the risks of banned substances. If this adverse publicity continues or increases, it could harm our Pharmanex business. In addition, in the past we have experienced negative publicity that has harmed our business in connection with regulatory investigations and inquiries. We may receive negative publicity in the future and it may harm our business.

**Distributor actions could harm our business.**

Distributor activities in our existing markets that violate applicable governmental laws or regulations could result in governmental actions against us in markets where we operate. Our distributors are not employees and act independently of us. We implement strict policies and procedures so that distributors will comply with applicable legal requirements. However, given the size of our distributor force, we do experience problems with distributors from time to time. Improper distributor activity in unopened markets can be particularly harmful to our ability to enter certain markets. Distributors often desire to enter a market before we have received approval to do business in order to gain an advantage in the

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market. This can harm our ability to ultimately enter into the market. This is of a particular concern in China given the current ban on direct selling activities and the political climate in that market. Improper distributor activity in China could adversely affect our ability to enter and grow this market.

**Failure of our Internet and other initiatives to create sustained distributor enthusiasm and incremental revenue growth would negatively impact our business.**

We have introduced various Internet and other initiative in our major markets in order to increase distributor sponsoring and help stabilize operations in those markets. Although we believe these initiatives have provided us with a competitive advantage, there is still uncertainty regarding the long-term effects of such initiatives. There can be no assurance that such initiatives will continue to spur distributor sponsorship and activity or generate revenue growth on a sustained basis. These initiatives are subject to various risks and uncertainties including:

- The risk that technical problems and any delays in deploying planned Internet and technological enhancements could reduce distributor enthusiasm, increase the costs of such initiatives and negatively impact our sales;
- The risk that our Internet initiatives may not lead to sustained benefits and increased sales for distributors, which could result in failure of such initiatives to generate sustained distributor activity; and
- The risk that new product introductions and initiatives will adversely affect sales of other products and not generate incremental growth.

**Failure of new products to gain distributor and market acceptance could harm our business.**

A critical component of our business is our ability to develop new and innovative products that create enthusiasm among our distributor force. If we fail to introduce new products planned for introduction in 2002 or if we fail to keep our product offering innovative and on the leading edge, this could harm distributor productivity. In addition, if any new products fail to gain market acceptance, are restricted by regulatory requirements, or have quality problems, this would have an adverse effect on our operations. Factors that could affect our ability to continue to introduce new products include, among others, the loss of key research and development staff from our divisions, the termination of third party research and collaborative arrangements, proprietary protections of competitors that may limit our ability to offer comparable products and any failure to anticipate changes in consumer tastes and buying preferences.

**Government inquiries, investigations and actions could harm our business.**

From time to time we receive formal and informal inquiries from various government regulatory authorities about our business and our compliance with local laws and regulations. In December 2000, we received notice from the FTC that they were investigating our compliance with our existing consent decree. We have responded to the FTC's requests and believe that we have not been in material violation of the consent decree. Any determination that we or any of our distributors are not in compliance with existing laws or regulations or our consent decree could potentially harm our business. Even if governmental actions do not result in rulings or orders, they potentially could decrease distributor productivity and create negative publicity. Negative publicity could detrimentally affect our efforts to motivate and recruit new distributors and, consequently, reduce revenue and net income.

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**The loss of key high-level distributors could reduce our revenue.**

Although we have approximately 558,000 active distributors, approximately 400 distributors currently occupy the highest levels under the Global Compensation Plan. These distributors, together with their extensive networks of downline-sponsored distributors, account for substantially all of our revenue. As a result, the loss of a high-level distributor or a group of leading distributors in such distributor's network of downline distributors could significantly reduce our revenue.

**Laws and regulations may prohibit or severely restrict our direct sales efforts and cause our sales and profitability to decline.**

Various government agencies throughout the world regulate direct sales practices. If we are unable to continue business in existing markets or commence operations in new markets because of such laws, our revenue and profitability will decline. China currently has laws that prohibit us from conducting business there under our current distribution model. Other countries where we currently do business could change their laws or regulations to negatively affect or prohibit completely direct sales efforts. Government agencies and courts in the countries where we operate may use their powers and discretion in interpreting and applying laws in a manner that limits our ability to operate or otherwise harms our business. If any governmental authority brings a regulatory enforcement action against us that interrupts our business, revenue and earnings would likely suffer.

#### **Challenges by private parties could harm our business.**

In the United States, the network marketing industry and regulatory authorities have generally relied on the implementation of distributor rules and policies designed to promote retail sales, to protect consumers and to prevent inappropriate activities, such as inventory loading and to distinguish between legitimate network marketing distribution plans and unlawful pyramid schemes. We have adopted rules and policies based on those the FTC found acceptable in reviewing the legality of Amway Corporation's marketing system. We have also developed some of our rules and policies based on negotiations and discussions with the Attorney Generals' offices in several states and the FTC, and based on industry standards required by domestic and global direct sales associations. Legal and regulatory requirements concerning network marketing systems, however, involve a high level of subjectivity, are inherently fact based and are subject to judicial interpretation. For example, in a 1996 case, *Webster v. Omnitrition*, the Ninth Circuit Court of Appeals ruled that the existence of rules patterned after the rules reviewed by the FTC in the Amway case do not establish as a matter of law that a network marketing system is legal. The court indicated that a company may need to introduce evidence that the rules and policies are enforced and actually serve to deter inventory loading and encourage retail sales in order to demonstrate that a particular network marketing system is lawful. The Ninth Circuit also raised questions and issues concerning the effectiveness of the rules at issue in that case and referred the case back to the trial court. These issues have not been definitively addressed by either a regulatory body or court since *Webster v. Omnitrition*. Because of the foregoing, we can provide no assurance that we would not be harmed by the application or interpretation of statutes or regulations governing network marketing, particularly in any civil challenge by a current or former distributor.

#### **Government regulation of products and services may restrict or inhibit introduction of these products in some markets and could harm our business.**

We may be unable to introduce our products in some markets if we fail to obtain needed regulatory approvals, or if any product ingredients are prohibited. For example, the FDA successfully stopped the marketing of our product *Cholestin* (the red yeast rice version) as a dietary supplement in the United States. In addition, regulations in Germany, Austria and Taiwan currently prevent us from marketing

certain products such as *St. John's Wort* and *BioGinkgo 27/7*. In addition, some markets have restrictions on private competition and foreign ownership of telecommunications products and services. The Internet is an emerging technology and market and, as such, new laws and regulations could be adopted to regulate such market and services that could affect our business. Failure to introduce products or delays in introducing products could reduce revenue and decrease profitability. Regulators also may prohibit us from making therapeutic claims about products despite research and independent studies supporting such claims. These product claim restrictions could lower sales of some of our products.

#### **Changes in tax laws or any inability to utilize foreign tax credits could harm our business.**

We are subject to various domestic and foreign tax, foreign exchange, import duty and transfer price laws. These laws can be complex and subject to various interpretations. We are subject to various risks including:

- Changes in any such laws that result in higher taxes or duties, subject more of our income to taxation in higher tax-rate jurisdictions, subject our sales to point-of-sales or value-added taxes, or impose new or additional taxes; and
- Any investigation or determination by regulatory authorities that we are not in compliance with such laws.

In addition, we have significant foreign tax credits that will expire over the next several years if they are not utilized. Although we currently anticipate we will be able to use these foreign tax credits, certain factors could impact our ability to use these credits, including any adverse change in our business performance, our failure to generate sufficient U.S. based income, and changes in tax laws. Any failure to utilize these credits could result in a charge to earnings.

#### **Losing suppliers or rights to sell products could harm our business.**

We currently acquire products and ingredients from a limited number of suppliers we consider to be among the best suppliers of products and ingredients. We also license the right to distribute some of our products from third parties. Losing any of these suppliers or licenses could restrict our ability to produce or distribute certain products and harm our sales as a result.

#### **Our markets are intensely competitive, and market conditions and the strengths of competitors may harm our business.**

The markets for our products are intensely competitive. We also compete with other network marketing companies for distributors. Our results of operations may be harmed by market conditions and competition in the future. Many competitors have much greater name recognition and financial resources than we have, which may give them a competitive advantage. We currently do not have significant patent or other proprietary protection, and competitors may introduce products with the same natural ingredients and herbs as we use in our products. Because of regulatory restrictions concerning claims about dietary supplements, we may have difficulty differentiating our products from competitors' products and competing products entering the nutritional market could harm our nutritional supplement sales. The market for many of Big Planet's products is very price sensitive, which have kept margins low in these products and negatively impacted our ability to operate Big Planet profitably. Although we have attempted to shift to higher margin products in the Big Planet division, there cannot be any assurance that we will be able to successfully identify and market high margin products that fit in the technology oriented product line of Big Planet.



**If we fail to keep pace with Internet-related and other technological changes, our business may be harmed.**

Direct selling companies are adapting their business models to integrate the Internet and other technological advances into their operations as more and more consumers purchase goods and services using the Internet instead of traditional retail and direct sales channels. The Internet and e-commerce markets are characterized by rapidly changing technology, evolving industry standards and frequent new services and enhancements to meet evolving customer demand. The success of Big Planet and our other e-commerce initiatives will depend on our ability to adapt to rapidly changing technologies, to adapt services to evolving industry standards and to continually improve the performance, features and reliability of our services. Failure to adapt to such changes could harm our business. In addition, competition for qualified information technology employees and contractors is strong because of the strong demand for their services. We have experienced in the past, and may experience in the future, difficulties in recruiting and retaining qualified informational technology personnel, which could harm our technology initiatives.

**Product liability claims could harm our business.**

We may be required to pay for losses or injuries caused by our products. Although we have had a very limited product claims history, we have recently experienced difficulty finding insurers willing to provide product liability coverage at reasonable rates due to industry trends associated with nutritional supplements and the rising cost of insurance. As a result, we have elected to self-insure our product liability risk at this time. If any of our products are found to cause any injury or damage, we would be liable for the full amount of liability associated with such injury or damage until such time as we elect to obtain product liability insurance. We cannot predict if and when product liability insurance will be available to us on reasonable terms.

**Adoption of new Internet and technological advances could require substantial expenditures.**

The widespread adoption of new Internet, networking or telecommunications technologies or other technological changes could require substantial expenditures to modify or adapt services or infrastructure. We have made over \$100 million in investments in technology for our business over the last five years. In 2001, Big Planet incurred operating losses of approximately \$16 million. We may not be able to integrate the Internet into our business in a profitable manner.

**System failures could harm our business.**

Because of our diverse geographic operations and our complex distributor compensation plan, our business is highly dependent on efficiently functioning information technology systems. These systems and operations are vulnerable to damage or interruption from fires, earthquakes, telecommunications failures and other events. They are also subject to break-ins, sabotage, intentional acts of vandalism and similar misconduct. Despite any precautions, the occurrence of a natural disaster or other unanticipated problems could result in interruptions in services and reduce our revenue and profits.

**Big Planet may be liable for information disseminated through its Internet access service.**

If Big Planet becomes liable for information provided by its users and carried on its Internet access service, we could be directly harmed and may be forced to implement new measures to reduce our exposure to this liability. The law relating to the liability of online services companies for information carried on or disseminated through their services is currently unsettled. Several private lawsuits currently are pending that seek to impose liability upon other online services companies. In addition, federal, state

and foreign legislation has been proposed that imposes liability or prohibits the transmission over the Internet of different types of information.

**Our e-commerce strategies and Big Planet's operations will depend on the development and maintenance of the Internet infrastructure.**

The success of Big Planet's service and our e-commerce strategies will depend largely on the development and maintenance of the Internet infrastructure. The Internet has experienced, and is likely to continue to experience, significant growth in the number of users and amount of traffic. If the Internet continues to experience an increased number of users, increased frequency of use or increased bandwidth requirements, the Internet infrastructure may be unable to support the demands placed on it. In addition, the performance of the Internet may be harmed by increased users or bandwidth requirements.

**The holders of our Class B common stock control over 90% of the combined voting power, and third parties will be unable to gain control of our company through purchases of Class A common stock.**

The ten original stockholders of our company together with their family members and affiliates have the ability to control the election of the board of directors and, as a result, future direction and operations, without the supporting vote of any other stockholder. These stockholders together with their family members and affiliates are able to control decisions about business opportunities, declaring dividends and issuing additional shares of Class A common stock or other securities. These stockholders own all outstanding shares of Class B common stock, which have ten-to-one voting privileges over shares of Class A common stock. Currently, these stockholders and their affiliates collectively own shares that represent more than 90% of the combined voting power of the outstanding shares of both classes of common stock. As long as these stockholders are majority stockholders, third parties will not be able to obtain control of our company through open-market purchases of shares of Class A common stock.

**Shares eligible for future sales could affect the market price of our Class A common stock.**

If our stockholders sell a substantial number of shares of Class A common stock in the public market, the market price of our Class A common stock could fall. Several of our principal stockholders hold a large number of shares of the outstanding Class A common stock and the Class B common stock that are convertible into Class A common stock. Some of the original stockholders have been actively selling shares on the open market. Additional sales by these stockholders or a decision by any of the other principal stockholders to aggressively sell shares could adversely affect the market for our stock.

**ITEM 2. PROPERTIES**

The Company generally leases its warehouse, office or distribution facilities in each geographic region in which the Company currently has operations. The Company believes that its existing and planned facilities are adequate for its current operations in each of its existing markets. The following table summarizes, as of March 15, 2002, Nu Skin Enterprises' major leased office and distribution facilities.

<u>Location</u>	<u>Function</u>	<u>Approximate Sq. Ft.</u>
Provo, Utah*	Distribution center	198,000
Provo, Utah*	Corporate offices	125,000
Los Angeles, California	Warehouse	35,000
Yokohama, Japan	Warehouse	40,000
Tokyo, Japan	Call center/distribution center	56,000
Tokyo, Japan	Central office/distribution center	28,000
Taipei, Taiwan	Central office/distribution center	77,000
Taoyuan, Taiwan	Warehouse/distribution center	47,000
Ontario, Canada	Office/warehouse	31,000
Venlo, Netherlands	Warehouse/offices	20,000
Seoul, Korea	Corporate offices	29,000

\*These facilities are leased from related parties

The Company also operates an extraction and purification facility located in Huzhou, Zhejiang Province, in China, where the Company produces extracts for its *TeGreen 97* and *Reishi* products. The Company also recently opened a personal care manufacturing facility near Shanghai, China. The facility (including office space) is approximately 43,000 square feet. The Company currently manufactures products in this facility primarily for distribution in China.

**ITEM 3. LEGAL PROCEEDINGS**

In January 2000, a derivative lawsuit captioned *Karen Kindt, on behalf of Nu Skin Enterprises, Inc. v. Blake Roney, et. al* was filed in the Court of Chancery in the State of Delaware in and for New Castle County against certain members of the Board of Directors alleging a breach of fiduciary duty and self-dealing in connection with the Company's acquisition of Nu Skin International in 1998, and the termination of the license agreements with Nu Skin USA, Inc., and the acquisition of Big Planet in 1999. The Board of Directors appointed a special litigation committee to investigate the validity of the complaint. After an exhaustive and thorough review of the allegations, the special committee made a report to the Board of Directors. Based on the findings by the special committee, the Company has moved to dismiss the complaint. The motion is pending.

**ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS**

There were no matters submitted to a vote of the security holders during the fourth quarter of the fiscal year ended December 31, 2001.

**PART II**

**ITEM 5. MARKET FOR REGISTRANT'S COMMON EQUITY AND RELATED STOCKHOLDER MATTERS**

The Company's Class A common stock is listed on the New York Stock Exchange ("NYSE") and trades under the symbol "NUS". The Company's Class B common stock has no established trading market. The following table is based upon the information available to the Company and sets forth the range of the high and low sales prices for the Company's Class A common stock for the quarterly periods during 2000 and 2001 based upon quotations on the NYSE.

<u>Quarter Ended</u>	<u>High</u>	<u>Low</u>
March 31, 2000	\$ 10.38	\$ 7.88
June 30, 2000	8.25	5.75
September 30, 2000	7.50	5.50
December 31, 2000	6.75	4.25

<u>Quarter Ended</u>	<u>High</u>	<u>Low</u>
March 31, 2001	\$ 8.90	\$ 5.25
June 30, 2001	8.50	6.90
September 30, 2001	8.69	6.30
December 31, 2001	8.83	6.55

The market price of the Company's Class A common stock is subject to significant fluctuations in response to variations in the Company's quarterly operating results, general trends in the market for the Company's products and product candidates, economic and currency exchange issues in the foreign markets in which the Company operates and other factors, many of which are not within the control of the Company. In addition, broad market fluctuations, as well as general economic, business and political conditions may adversely affect the market for the Company's Class A common stock, regardless of the Company's actual or projected performance.

The closing price of the Company's Class A common stock on March 20, 2002 was \$9.60. The approximate number of holders of record of the Company's Class A common stock and Class B common stock as of March 20, 2002 was 860 and 39, respectively. This number of record holders does not represent the actual number of beneficial owners of shares of the Company's Class A common stock because shares are frequently held in "street name" by securities dealers and others for the benefit of individual owners who have the right to vote their shares.

In March 2001, the Company commenced paying dividends on its outstanding shares. The Company declared and paid a \$0.05 per share dividend in each of March, June, September and December of 2001. In February 2002, the board of directors authorized the Company to declare a quarterly cash dividend of \$0.06 per share for all classes of common stock. The quarterly cash dividend was paid on March 27, 2002, to stockholders of record on March 8, 2002. Management believes that cash flows from operations will be sufficient to fund this and future dividend payments.

#### ITEM 6. SELECTED FINANCIAL DATE

The following selected consolidated financial data as of and for the years ended December 31, 1997, 1998, 1999, 2000 and 2001 have been derived from the audited consolidated financial statements. The

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Company's consolidated financial statements for all periods presented before December 31, 1998 have been combined and restated for the acquisition of Nu Skin International, Inc. ("NSI") and certain other related affiliates in March 1998 (the "NSI Acquisition").

	<u>Year Ended December 31,</u>				
	<u>1997</u>	<u>1998(2)</u>	<u>1999(3)</u>	<u>2000</u>	<u>2001</u>
	<u>(U.S. dollars in thousands, except per share data)</u>				
<b>Income Statement Data:</b>					
Revenue	\$ 953,422	\$ 913,494	\$ 894,249	\$ 879,758	\$ 885,621
Cost of sales	191,218	188,457	151,681	149,342	178,083
Cost of sales - amortization of inventory step-up	—	21,600	—	—	—
Gross profit	<u>762,204</u>	<u>703,437</u>	<u>742,568</u>	<u>730,416</u>	<u>707,538</u>
Operating expenses:					
Distributor incentives	362,195	331,448	346,951	345,259	347,452
Selling, general and administrative	201,880	202,150	265,770	294,744	288,605
Distributor stock expense	17,909	—	—	—	—
In-process research and development	—	13,600	—	—	—
Total operating expenses	<u>581,984</u>	<u>547,198</u>	<u>612,721</u>	<u>640,003</u>	<u>636,057</u>
Operating income	180,220	156,239	129,847	90,413	71,481
Other income (expense), net	<u>8,973</u>	<u>13,599</u>	<u>(1,411)</u>	<u>5,993</u>	<u>8,380</u>
Income before provision for income taxes and minority interest	189,193	169,838	128,436	96,406	79,861
Provision for income taxes	55,707	62,840	41,742	34,706	29,548
Minority interest <sup>(1)</sup>	<u>14,993</u>	<u>3,081</u>	<u>—</u>	<u>—</u>	<u>—</u>
Net income	<u>\$ 118,493</u>	<u>\$ 103,917</u>	<u>\$ 86,694</u>	<u>\$ 61,700</u>	<u>\$ 50,313</u>
Net income per share:					
Basic	\$ 1.42	\$ 1.22	\$ 1.00	\$ 0.72	\$ 0.60
Diluted	\$ 1.36	\$ 1.19	\$ 0.99	\$ 0.72	\$ 0.60
Weighted average common shares outstanding (000s):					
Basic	83,331	84,894	87,081	85,401	83,472
Diluted	87,312	87,018	87,893	85,642	83,915

	<u>Year Ended December 31,</u>				
	<u>1997</u>	<u>1998(2)</u>	<u>1999(3)</u>	<u>2000</u>	<u>2001</u>
	<u>(U.S. dollars in thousands)</u>				
<b>Balance Sheet Data:</b>					
Cash and cash equivalents	\$ 174,300	\$ 188,827	\$ 110,162	\$ 63,996	\$ 75,923
Working capital	123,220	164,597	74,561	122,835	152,513
Total assets	405,004	606,433	643,215	590,803	582,352
Short-term notes payable to stockholders	19,457	—	—	—	—
Long-term notes payable to stockholders	116,743	—	—	—	—
Short-term debt	—	14,545	55,889	—	—
Long-term debt	—	138,734	89,419	84,884	73,718

Stockholders' equity	94,892	254,642	309,379	366,733	379,890
	<b>Year Ended December 31,</b>				
	<b>1997</b>	<b>1998</b>	<b>1999</b>	<b>2000</b>	<b>2001</b>
<b>Other Operating Data:</b>					
Number of active distributors <sup>(4)</sup>	448,000	470,000	510,000	497,000	558,000
Number of executive distributors	22,689	22,781	21,005	21,381	24,839
Current ratio	1.6	1.9	1.4	2.2	2.8
Debt to equity ratio	1.4	0.6	0.5	0.2	0.2
EBITDA <sup>(5)</sup> (in millions)	\$ 239.2	\$ 220.6	\$ 167.3	\$ 138.9	\$ 115.1
Market capitalization (in millions)	\$ 1,593.2	\$ 2,055.8	\$ 796.4	\$ 454.5	\$ 734.1
Return on average assets <sup>(5)</sup>	30.2%	20.5%	13.9%	10.0%	8.6%
Market price per common share	\$ 18.25	\$ 23.63	\$ 9.06	\$ 5.31	\$ 8.75

(1) Minority interest represents the ownership interests in NSI held by individuals prior to the NSI Acquisition in 1998 who are not immediate family members of the majority-interest holders. The Company purchased the minority interest as part of the NSI Acquisition.

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(2) In October 1998, the Company acquired Generation Health Holdings, Inc., the parent of Pharmanex (the "Pharmanex Acquisition"). With the Pharmanex Acquisition, the Company increased its nutritional product development and formulation capabilities. In connection with the Pharmanex Acquisition, the Company allocated \$13.6 million to purchased in-process research and development. During 1998, the Company fully wrote off the in-process research and development amount.

(3) 1999 results include the acquisition of certain assets of Nu Skin USA, Inc. and the acquisition of Big Planet, Inc., which are discussed in detail in Management's Discussion and Analysis of Financial Condition and Results of Operations.

(4) Active distributors are those distributors who were resident in the countries in which the Company operated and purchased products during the three months ended as of the date indicated. An executive distributor is an active distributor who has achieved required personal and group sales volumes.

(5) Year ended December 31 for each year presented.

## ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

The following discussion of the Company's financial condition and results of operations should be read in conjunction with the consolidated financial statements and related notes thereto, which are included in this Annual Report

### General

Nu Skin Enterprises, Inc. (the "Company") is a leading, global direct selling company that develops and distributes premium-quality, innovative personal care products and nutritional supplements and technology and telecommunications products and services.

The Company's revenue depends upon the number and productivity of independent distributors who purchase products and sales materials from the Company in their local currency for resale to their customers or for personal use. The Company recognizes revenue when products are shipped, which is when title passes to these independent distributors. The Company implements a generous return policy whereby distributors can return unopened and unused product for up to 12 months subject to a 10% restocking fee. Reported revenue is net of returns, which have historically been less than 5.0% of gross sales. A reserve for product returns is accrued based on historical experience. In addition, the Company operates a professional employer organization ("PEO") that outsources personnel and benefits to small businesses in the United States. Revenue for the PEO consists of service fees paid by its clients.

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The following table sets forth revenue information by region for the time periods indicated. This table should be reviewed in connection with the tables presented under "Results of Operations," which disclose distributor incentives and other costs associated with generating the aggregate revenue presented.

<u>Region</u>	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
	(U.S. dollars in millions)		
North Asia	\$ 619.3	\$ 585.4	\$ 553.9
North America	117.9	155.8	155.9
Southeast Asia	140.1	119.5	150.3
Other Markets	<u>17.0</u>	<u>19.1</u>	<u>25.5</u>
	<u>\$ 894.3</u>	<u>\$ 879.8</u>	<u>\$ 885.6</u>

Revenue generated in North Asia represented 63% of total revenue generated during the year ended December 31, 2001. The Company's operations in Japan generated 92% of the North Asia revenue during the same period. Revenue generated in North America represented 18% of total revenue generated during the year ended December 31, 2001. The Company's operations in the United States generated 96% of the North America revenue during that period. Revenue from Southeast Asia operations represented 17% of total revenue generated during the year ended December 31, 2001. During 2001, the Company's operations in Southeast Asia had incremental increases in revenue in Singapore of \$33.6 million and in Malaysia of \$5.0 million following commencement of operations in December 2000 and November 2001, respectively.

Cost of sales primarily consists of the cost of products purchased from third-party vendors (generally in U.S. dollars), the freight cost of shipping these products to distributors as well as import duties for such products. Cost of sales also includes the cost of sales materials sold to

distributors at or near cost. Sales materials are generally purchased in local currencies. Additionally, the Company's technology and telecommunications products and services carry a significantly lower gross margin than its personal care and nutritional products. For the PEO, cost of sales includes the direct costs (such as salaries, wages and other benefits) associated with the worksite employees. As the sales mix changes between product categories and sales materials, cost of sales and gross profit may fluctuate to some degree due primarily to the margin on each product line. Also, as currency exchange rates fluctuate, the Company's gross margin will fluctuate.

Distributor incentives are paid to several levels of distributors on each product sale. The amount of the incentive varies depending on the purchaser's position within the Company's Global Distributor Compensation Plan. These incentives are classified as operating expenses. Distributor incentives are the Company's most significant expense. Distributor incentives are paid monthly and are based upon a distributor's personal and group sales volumes as well as the group sales volumes of up to six levels of executive distributors in their downline sales organizations. Small fluctuations occur in the amount of incentives paid as the network of distributors actively purchasing products changes from month to month. However, due to the size of the Company's distributor force (approximately 558,000 active distributors), the fluctuation in the overall payout is relatively small. The overall payout averages from 41% to 43% of global product sales. Sales materials and starter kits are not subject to distributor incentives. In addition, sales to the Company's North American privately-held affiliates (the "North American Affiliates") were not subject to distributor incentives prior to being acquired by the Company in 1999.

Selling, general and administrative expenses include wages and benefits, depreciation and amortization, rents and utilities, travel, promotion and advertising including costs of distributor conventions which are expensed in the period in which they are incurred, research and development, professional fees and other operating expenses. (See Note 2 of the Company's Consolidated Financial

Statements for a description of significant accounting policies including implementation of SFAS 142, *Goodwill and Other Intangible Assets*.)

Provision for income taxes depends on the statutory tax rates in each of the countries in which the Company operates. For example, statutory tax rates are 16.0% in Hong Kong, 25.0% in Taiwan, 30.8% in South Korea and 46.3% in Japan. The Company is subject to taxation in the United States at a statutory corporate federal tax rate of 35.0%. However, the Company receives foreign tax credits in the United States for the amount of foreign taxes actually paid in a given period, which are utilized to reduce taxes in the United States to the extent allowed.

In March 1999, NSI terminated its distribution license and various other license agreements and other intercompany agreements with Nu Skin USA, Inc. ("Nu Skin USA") and paid Nu Skin USA a termination fee. Also, in March 1999, through a newly formed wholly-owned subsidiary, the Company acquired selected assets of Nu Skin USA in exchange for assuming various accounts payable of Nu Skin USA. In May 1999, the Company completed the acquisition of its affiliates in Canada, Mexico and Guatemala. In July 1999, the Company completed the acquisition of Big Planet, Inc. ("Big Planet").

### Critical Accounting Policies

For a complete review of the Company's significant accounting policies and new accounting pronouncements that may impact the Company's results refer to Note 2 of the Company's Consolidated Financial Statements. Of these policies, the most critical to management are the recognition of revenue, accounting for the impact of foreign currencies and accounting for income taxes. In each of these areas management makes estimates based on historical results, current trends and future projections. Revenue recognition policies were explained above. The Company operates in 34 countries and generates the majority of its revenue and income in foreign currencies in international markets. Consequently, fluctuations in foreign currencies, particularly the Japanese yen, will have a significant impact on reported results. The Company believes that it applies appropriate financial standards in its consolidation process to properly account for such fluctuations. In addition, the Company pays income taxes in many foreign jurisdictions based on the profits realized in such jurisdictions, which can be significantly impacted by terms of intercompany transactions between the Company and its foreign affiliates. Deferred tax assets and liabilities are created in this process and the Company records such tax obligations in accordance with appropriate accounting standards as explained in the Notes to the Company's Consolidated Financial Statements.

### Results of Operations

The following tables set forth operating results and operating results as a percentage of revenue, respectively, for the periods indicated.

	Year Ended December 31,		
	1999	2000	2001
	(U.S. dollars in millions)		
Revenue	\$ 894.3	\$ 879.8	\$ 885.6
Cost of sales	<u>151.7</u>	<u>149.4</u>	<u>178.1</u>
Gross profit	<u>742.6</u>	<u>730.4</u>	<u>707.5</u>
Operating expenses:			
Distributor incentives	347.0	345.3	347.4
Selling, general and administrative	<u>265.8</u>	<u>294.7</u>	<u>288.6</u>
Total operating expenses	<u>612.8</u>	<u>640.0</u>	<u>636.0</u>
Operating income	129.8	90.4	71.5
Other income (expense), net	<u>(1.4)</u>	<u>6.0</u>	<u>8.4</u>
Income before provision for income taxes	128.4	96.4	79.9
Provision for income taxes	<u>41.7</u>	<u>34.7</u>	<u>29.6</u>
Net income	<u>\$ 86.7</u>	<u>\$ 61.7</u>	<u>\$ 50.3</u>

	Year Ended December 31,		
	1999	2000	2001
Revenue	100.0%	100.0%	100.0%
Cost of sales	<u>17.0</u>	<u>17.0</u>	<u>20.1</u>

Gross profit	83.0	83.0	79.9
Operating expenses:			
Distributor incentives	38.8	39.2	39.2
Selling, general and administrative	29.7	33.5	32.6
Total operating expenses	68.5	72.7	71.8
Operating income	14.5	10.3	8.1
Other income (expense), net	(.1)	.7	.9
Income before provision for income taxes	14.4	11.0	9.0
Provision for income taxes	4.7	4.0	3.3
Net income	9.7%	7.0%	5.7%

## 2001 Compared to 2000

**Revenue** in 2001 increased 0.7% to \$885.6 million from \$879.8 million in 2000 primarily due to the growth in the Southeast Asia region and increased revenue from the PEO business in the United States. Revenue and revenue growth in 2001 were negatively impacted by a weakening of foreign currencies. In local currency, the Company experienced constant currency growth of 9.4% for 2001 compared to the prior year.

Revenue in North Asia decreased 5.4% to \$553.9 million in 2001 from \$585.4 million in 2000. The decrease in revenue was due to revenue in Japan decreasing 8.3% to \$508.1 million in 2001 from \$554.2 million in 2000. This decrease is directly attributable to a 12.7% weakening in the Japanese yen for 2001 compared to the prior year. In local currency, revenue in Japan increased 3.3% in 2001. Over the Company's nine year history in Japan, the economy of Japan has been stagnant. While such economic times may benefit recruitment of new distributors, more severe economic challenges can negatively impact overall revenue. In 2001, the strength of key Nu Skin and Pharmanex products launched as well as the successful promotion of the automatic repurchasing programs and the initiation of personalized web sites for distributors drove growth in Japan. The decline in revenue in Japan in U.S. dollar terms was partially offset by an increase in revenue in South Korea of 46.8% to \$45.8 million in 2001 from \$31.2 million in 2000. In local currency, revenue in South Korea was 67.4% higher in 2001 compared to the prior year. The continued revenue growth in South Korea in U.S. dollars and local currency is attributed primarily to an improving economy as well as a rebound in the direct selling industry as a

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whole in South Korea. In addition, the Company successfully launched several new products and successfully promoted the Company's automatic repurchasing program.

Revenue in Southeast Asia increased 25.8% to \$150.3 million in 2001 from \$119.5 million in 2000. In local currency, revenue in Southeast Asia increased 32.5% in 2001 compared to the prior year. The increase in revenue resulted primarily from a full year of operations in Singapore, which generated \$34.6 million in 2001 compared to \$1.0 million in 2000 following the opening of the Company's operations in Singapore in December 2000, as well as the commencement of operations in Malaysia in November 2001, which generated an additional \$5.0 million in revenue. Success in Singapore and Malaysia has also contributed to modest growth in other markets in the Southeast Asia region, such as Hong Kong, Thailand and Australia. These increases, however, were somewhat offset by the results in Taiwan, which decreased 15.8% to \$70.2 million in 2001 from \$83.4 million in 2000. In local currency, revenue in Taiwan decreased 8.9% in 2001 from the prior year. Local currency revenue in Taiwan increased 5.1% during the second quarter of 2001 compared to the first quarter of 2001, due in part to seasonal trends, decreased 1.3% from the second quarter of 2001 to the third quarter of 2001 and increased 2.3% from the third quarter of 2001 to the fourth quarter of 2001 due in part to seasonal trends. While the Company's operations in Taiwan continue to be impacted by increased competition, economic pressures and an overall maturity of direct selling in that market, management believes that sequential quarterly revenue totals indicate an overall stabilization of operations in Taiwan.

Revenue in North America, consisting of the United States and Canada, remained nearly constant at \$155.9 million in 2001 compared to \$155.8 million in 2000. Revenue in the United States increased 0.2% to \$149.0 million in 2001 from \$148.6 million in the prior year. Revenue in the United States in 2001 includes an additional \$16.6 million of revenue generated from the PEO over the prior year. The Company has incubated the PEO service with a view of possibly launching the service through its distributor networks at some point in the future. The Company currently has no intention to launch the PEO service through its distributors at this time. In addition, the international convention held in the United States in February 2001 generated approximately \$5.0 million in revenue from sales to international distributors attending the convention. More than offsetting this additional revenue in the United States, revenue from the Company's core business in the United States was negatively impacted by distributor uncertainty relating to the Company's divisional strategies and the decreased focus on unprofitable products such as the free iPhone promotion and certain iLink telecommunications products. In addition, the changes made by the Company to address these concerns were announced in early September of 2001, just prior to the tragic events of September 11, 2001, which delayed the impact of the announced changes.

Revenue in the Company's other markets, which include its European and Latin American operations, increased 33.5% to \$25.5 million in 2001 from \$19.1 million in 2000. This increase in revenue is due to a 38.0% increase in revenue in Europe in U.S. dollars compared to the prior year. In local currency, revenue in Europe increased approximately 42.0% during 2001 compared to the prior year.

**Gross profit** as a percentage of revenue decreased to 79.9% in 2001 compared to 83.0% in 2000. The decrease in gross profit percentage resulted primarily from the weakening of the Japanese yen and other currencies relative to the U.S. dollar, which negatively impacted margins by 1.4%, and the increased revenue relating to the PEO, which carries significantly lower gross margins than the Company's other products and negatively impacted margins by 2.1%. These factors were partially offset by 0.4% gross margin improvement in core Nu Skin and Pharmanex products. The Company purchases a significant majority of its goods in U.S. dollars and recognizes revenue in local currencies. Consequently, the Company is subject to exchange rate risks in its gross margins.

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**Distributor incentives** as a percentage of revenue remained constant at 39.2% in 2001 and 2000. Distributor incentives increased 0.6% to \$347.5 million in 2001 from \$345.3 million in 2000 as a result of the slight revenue increase in 2001. Prior to 2000, the Company restructured a portion of its compensation plan for distributors, adding short-term incentives designed to attract new distributor leaders. Management believes these changes in the compensation plan have helped to strengthen the Company's active and executive distributors, which have increased to 558,000 and 24,800 in 2001 from 497,000 and 21,400 in 2000, respectively.

**Selling, general and administrative** expenses as a percentage of revenue decreased to 32.6% in 2001 from 33.5% in 2000. Selling, general and administrative expenses decreased to \$288.6 million in 2001 from \$294.7 million in 2000. The decreases resulted primarily from a weaker Japanese yen in 2001 as well as the Company's cost-saving initiatives including reductions in headcount and occupancy costs. Offsetting these lower expenses were the costs incurred during the first quarter in 2001 for the Company's international distributor convention in the United States which added approximately \$5.0 million in selling, general and administrative expenses. The international convention is held every 18 months and accordingly, year 2000 results did not include convention expenses.

**Other income (expense), net** increased \$2.4 million in 2001 compared to the prior year. This increase related primarily to a \$2.3 million gain from the sale of an interest in the Company's Malaysian subsidiary.

**Provision for income taxes** decreased to \$29.6 million in 2001 from \$34.7 million in 2000. This decrease was largely due to a decrease in operating income as compared to the prior year, offset by an increase in the effective tax rate from 36.0% in 2000 to 37.0% in 2001.

**Net income** decreased to \$50.3 million in 2001 from \$61.7 million in 2000. Net income decreased primarily because of the factors noted above in "gross profit" and "distributor incentives" and was somewhat offset by the factors noted in "revenue," "selling, general and administrative," "other income (expense), net" and "provision for income taxes" above.

## 2000 Compared to 1999

**Revenue** in 2000 decreased 1.6% to \$879.8 million from \$894.3 million in 1999. The decrease in revenue was due to lower revenue results in Japan and Taiwan, which was partially offset by increased revenue in the United States from the operations of Big Planet, as discussed below. Fluctuations in foreign currency exchange rates positively impacted revenue in 2000 by approximately 4.0%.

Revenue in North Asia decreased 5.5% to \$585.4 million compared to \$619.3 million in 1999. This decrease in revenue was due to revenue in Japan decreasing 8.0% to \$554.2 million in 2000 from \$602.4 million in 1999. In local currency terms, revenue in Japan was 12.5% lower in 2000 versus the prior year. The decrease in revenue in Japan was largely due to challenges with distributor productivity and competition faced by the Company in 1999 and early in the year 2000. In addition, economic uncertainty in Japan negatively impacted revenue. In 2000, the Company undertook several initiatives to help stabilize revenue in Japan, including the launch of the Pharmanex business opportunity for distributors early in the year, increased focus on its automatic delivery program and the launch of the Pharmanex web site product (ePharmanex) late in the year and other initiatives. The overall decline in revenue in Japan in 2000 was somewhat offset by an increase in revenue in South Korea of 84.6% to \$31.2 million in 2000 from \$16.9 million in 1999. The revenue increase in South Korea was primarily due to significant new product launches in 2000 including Pharmanex's weight management products and Nu Skin 180°, as well as an overall increase in the number of executive level distributors.

Revenue in Southeast Asia totaled \$119.5 million in 2000, down from revenue of \$140.1 million in 1999, a decrease of \$20.6 million or 14.7%. This decline in revenue was primarily a result of revenue in Taiwan decreasing 19.5% to \$83.4 million in 2000 from \$103.6 million in 1999. The Company's operations in Taiwan were adversely affected by increased competition and an overall decline in sales in the direct selling industry in Taiwan, which management believes is largely due to economic concerns throughout Southeast Asia. In addition, direct selling as a distribution channel has significantly penetrated the Taiwanese market. The revenue decline in Southeast Asia was partially offset by the opening of the market in Singapore which generated \$1.0 million in revenue in one month of operation in 2000. In addition, the revenue from the Company's retail operations opened in China in 2000 was \$1.2 million. Other markets in the region such as Hong Kong, Thailand, the Philippines, Australia and New Zealand were slightly down in 2000 versus 1999 due largely to economic uncertainty in the region as well as negative foreign currency impact for the year.

Revenue in North America, consisting of the United States and Canada, increased 32.1% to \$155.8 million in 2000, from \$117.9 million in 1999. This increase in revenue is due to the inclusion of a full year of operations of Big Planet following its acquisition in July 1999 as well as a full year of operations of the Company's North America sales operations following the termination of the license agreements in March 1999. Revenue in the Big Planet division increased \$32.9 million due to the timing of the acquisition as well as growth within Big Planet in the year 2000. In addition, revenue in North America, exclusive of Big Planet, increased by \$5.0 million due to a full year of revenue from sales to distributors in North America during 2000, following the early 1999 acquisitions. Revenue in the United States decreased sequentially during the last two quarters of the year primarily as a result of the termination of Big Planet's iPhone giveaway and weaker than anticipated sales during the fourth quarter holiday season. The Company made the strategic decision to terminate the iPhone giveaway in order to improve operating profits.

Revenue in the Company's other markets, which include its European, Latin American and Brazilian operations, increased 12.6% to \$19.1 million in 2000. This increase was largely due to a 35% increase in local currency revenue in Europe, more than making up for the negative currency impact experienced in Europe in 2000 from 1999.

**Gross profit** as a percentage of revenue remained constant at 83.0% in 2000 and 1999. The Company's gross margin in 2000 was positively impacted by the strengthening of the Japanese yen and other Asian currencies relative to the U.S. dollar, higher margin sales to distributors in the United States following the termination of the Company's license agreement with Nu Skin USA, increased local manufacturing efforts and reduced duty rates. The Company purchases a significant majority of goods in U.S. dollars and recognizes revenue in local currencies. Consequently, the Company is subject to exchange rate risks in its gross margins. This positive impact was offset by the overall growth in revenue from Big Planet in 2000, which includes revenue from lower margin technology products and services.

**Distributor incentives** as a percentage of revenue increased to 39.2% in 2000 from 38.8% in 1999. The primary reason for the increase in 2000 was the termination of the Company's license agreement with Nu Skin USA, which resulted in the Company beginning to sell products directly to distributors in the United States and paying the requisite commissions related to those sales. In addition, the Company has enhanced its compensation plan for distributors, adding short-term incentives for emerging distributor leaders. This resulted in a slight increase in distributor incentives.

**Selling, general and administrative** expenses as a percentage of revenue increased to 33.5% in 2000 from 29.7% in 1999. In U.S. dollar terms, selling, general and administrative expenses increased to \$294.7 million in 2000 from \$265.8 million in 1999. This increase of \$28.9 million was due primarily to an additional \$18.3 million of selling, general and administrative expenses related to the assumed

operations of Big Planet for a full year in 2000 compared to selling, general and administrative expenses from Big Planet following its acquisition in mid-1999. In addition, the Company incurred an incremental \$6.7 million of overhead expenses during 2000 compared to 1999 for operations in North America following the acquisition of certain assets from Nu Skin USA in March 1999 and the North American Affiliates in May 1999. Selling, general and administrative expenses also increased due to a stronger Japanese yen in 2000. On a local currency basis, selling, general and administrative expenses in foreign markets declined slightly in 2000 from 1999, but due to a stronger Japanese yen, the U.S. dollar amount of such expenses increased by \$4.0 million.

**Other income (expense), net** increased \$7.4 million in 2000 compared to the prior year primarily as a result of the foreign currency gains resulting from favorable exchange rate fluctuations between the U.S. dollar and the Japanese yen within the Company's currency hedging program. In addition, the Company's interest expense decreased by approximately \$1.0 million relating to the Company's pay down of its long-term debt.

**Provision for income taxes** decreased to \$34.7 million in 2000 from \$41.7 million in 1999. This decrease is primarily related to lower income earned in 2000 versus 1999, which was somewhat offset by the lower effective tax rate of 32.5% in 1999 versus 36.0% in 2000. The lower effective tax rate in 1999 was due to the improved ability to utilize foreign tax credits as a result of the Company's global tax restructuring plans in that period.

**Net income** decreased to \$61.7 million in 2000 from \$86.7 million in 1999. Net income decreased primarily because of the factors noted above in "revenue," "distributor incentives" and "selling, general and administrative" and was somewhat offset by the factors noted in "other income (expense), net" and "provision for income taxes" above.

## Liquidity and Capital Resources

Historically, the Company's principal needs for funds have been for operating expenses including distributor incentives, working capital (principally inventory purchases), capital expenditures and the development of operations in new markets. The Company has generally relied on cash flow from operations to meet its cash needs and business objectives without incurring long-term debt to fund operating activities.

The Company typically generates positive cash flow from operations due to favorable gross margins, the variable nature of distributor incentives which comprise a significant percentage of operating expenses and minimal capital requirements. The Company generated \$74.4 million in cash from operations in 2001 compared to \$43.4 million in 2000. This increase in cash generated from operations in 2001 compared to the prior-year period is primarily related to reduced taxes paid in 2001 versus 2000, in part, due to the utilization of foreign tax credits, somewhat offset by lower net income in 2001.

As of December 31, 2001, working capital was \$152.5 million compared to \$122.8 million as of December 31, 2000. Cash and cash equivalents at December 31, 2001 and 2000 were \$75.9 million and \$64.0 million, respectively. In addition to factors such as capital expenditures, dividends and stock repurchases, the Company's U.S. dollar reported cash position was negatively impacted during 2001 by the strength of the U.S. dollar relative to other currencies, particularly the Japanese yen. In 2000, cash and cash equivalents were negatively impacted by a net debt payment of \$55.7 million. The subsequent refinancing in 2000 of the Company's existing credit facility, as described below, positively impacted the Company's working capital in 2000 and 2001.

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Capital expenditures, primarily for equipment, computer systems and software, office furniture and leasehold improvements, were \$15.1 million for the year ended December 31, 2001. In addition, the Company anticipates capital expenditures in 2002 of approximately \$21.0 million to further enhance its infrastructure, including enhancements to computer systems and Internet related software in order to expand the Company's Internet capabilities, as well as further expansion of the Company's retail stores and related infrastructure in China.

On October 12, 2000, the Company refinanced the \$87.1 million balance of its existing credit facility with the proceeds of a private placement of 9.7 billion Japanese yen of ten-year senior notes (the "Notes") to The Prudential Insurance Company of America. The Notes bear interest at an effective rate of 3.03% per annum and are due October 2010, with annual principal payments beginning October 2004. As of December 31, 2001, the outstanding balance on the Notes was 9.7 billion Japanese yen, or \$73.7 million.

On May 10, 2001, the Company entered into a \$60.0 million revolving credit agreement (the "Revolving Credit Facility") with Bank of America, N.A. and Bank One, N.A. for which Bank of America, N.A. acted as agent. The proceeds may be used for working capital, capital expenditures and other purposes including repurchases of the Company's outstanding shares of Class A common stock. There were no outstanding balances relating to the Revolving Credit Facility as of December 31, 2001. The Revolving Credit Facility is reduced to \$45.0 million on May 10, 2002, and is further reduced to \$30.0 million on May 10, 2003. The Revolving Credit Facility is set to expire on May 10, 2004.

Since August 1998, the board of directors has authorized the Company to repurchase up to \$70.0 million of the Company's outstanding shares of Class A common stock. The repurchases are used primarily to fund the Company's equity incentive plans. During the years ended December 31, 2001 and 2000, the Company repurchased approximately 2.5 million and 1.9 million shares of Class A common stock for an aggregate price of approximately \$18.1 million and \$12.8 million, respectively. As of December 31, 2001, the Company had repurchased a total of approximately 6.7 million shares of Class A common stock for an aggregate price of approximately \$59.0 million.

During each quarter of 2001, the board of directors declared cash dividends of \$0.05 per share for all classes of common stock. These quarterly cash dividends totaled approximately \$16.4 million and were paid during 2001 to stockholders of record in 2001. In addition, the Company anticipates that the board of directors will continue to declare quarterly cash dividends in 2002. On February 8, 2002, the board of directors increased the dividend to be paid during the first quarter of 2002 to \$0.06 per share for all classes of common stock. Management believes that cash flows from operations will be sufficient to fund continued dividend payments.

The Company had related party payables of \$7.1 million and \$9.0 million at December 31, 2001 and 2000, respectively. In addition, the Company had related party receivables of \$13.0 million and \$13.2 million, respectively, at those dates. These balances are largely related to the Big Planet Acquisition and the Nu Skin USA transactions completed during 1999 as well as a \$6.4 million loan to a significant stockholder, partly collateralized by Company stock. For a further discussion of related party transactions see Note 5 to the Company's Consolidated Financial Statements.



Management considers the Company to be sufficiently liquid to be able to meet its obligations on both a short and long-term basis. Management currently believes existing cash balances together with future cash flows from operations will be adequate to fund cash needs relating to the implementation of the Company's strategic plans. The majority of the Company's expenses are variable in nature and as such, a potential reduction in the level of revenue would reduce the Company's cash flow needs. However, in the event that the Company's current cash balances, future cash flow from operations and current lines of credit are not sufficient to meet its obligations or strategic needs, the Company would

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consider raising additional funds in the capital or equity markets or to restructure its current debt obligations. Additionally, the Company would consider realigning its strategic plans including a reduction in capital spending and a reduction in the level of stock repurchases or dividend payments.

The SEC has encouraged all public companies to aggregate all contractual commitments and commercial obligations that affect financial condition and liquidity as of December 31, 2001. To respond to this, the Company has included the following table. Payments due by period for contractual obligations are as follows (U.S. dollars in thousands):

	<u>Total</u>	<u>0-3 Years</u>	<u>4-5 Years</u>	<u>After 5 Years</u>
Long-term debt	\$ 73,718	\$ 10,531	\$ 21,062	\$ 42,125
Capital lease obligations	Nil	Nil	Nil	Nil
Operating leases <sup>(1)</sup>	36,988	16,543	5,434	15,011
Unconditional purchase obligations <sup>(2)</sup>	n/a	n/a	n/a	n/a
Other long-term obligations <sup>(2)</sup>	n/a	n/a	n/a	n/a
Total contractual cash obligations	<u>\$ 110,706</u>	<u>\$ 27,074</u>	<u>\$ 26,496</u>	<u>\$ 57,136</u>

(1) Operating leases includes corporate office and warehouse space with two related party entities which totaled \$3.3 million for the year ended December 31, 2001 and is \$19.8 million of the total operating lease commitment.

(2) The Company enters into ordinary purchase, supply and consulting or other contracts as part of its ongoing operations. As of December 31, 2001, there were no material unconditional purchase obligations or other long-term obligations.

### Seasonality

In addition to general economic factors, the direct selling industry is impacted by seasonal factors and trends such as major cultural events and vacation patterns. For example, most Asian markets celebrate their respective local New Year in the first quarter, which generally has a negative impact on such quarter. Management believes that direct selling in Japan, the United States and Europe is also generally negatively impacted during the month of August, which is in the Company's third quarter, when many individuals, including the Company's distributors, traditionally take vacations.

### Distributor Information

The following table provides information concerning the number of active and executive distributors as of the dates indicated. Active distributors are those distributors who were resident in the countries in which the Company operated and purchased products during the three months ended as of the date indicated. An executive distributor is an active distributor who has achieved required monthly personal and group sales volumes.

	<u>As of December 31, 1999</u>		<u>As of December 31, 2000</u>		<u>As of December 31, 2001</u>	
	<u>Active</u>	<u>Executive</u>	<u>Active</u>	<u>Executive</u>	<u>Active</u>	<u>Executive</u>
North Asia	311,000	14,601	301,000	14,968	319,000	16,891
North America	70,000	2,547	74,000	2,632	76,000	2,419
Southeast Asia	113,000	3,419	100,000	3,044	137,000	4,540
Other Markets	<u>16,000</u>	<u>438</u>	<u>22,000</u>	<u>737</u>	<u>26,000</u>	<u>989</u>
Total	<u>510,000</u>	<u>21,005</u>	<u>497,000</u>	<u>21,381</u>	<u>558,000</u>	<u>24,839</u>

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### Quarterly Results

The following table sets forth certain unaudited quarterly data for the periods shown.

	<u>2000</u>				<u>2001</u>			
	<u>1<sup>st</sup> Quarter</u>	<u>2<sup>nd</sup> Quarter</u>	<u>3<sup>rd</sup> Quarter</u>	<u>4<sup>th</sup> Quarter</u>	<u>1<sup>st</sup> Quarter</u>	<u>2<sup>nd</sup> Quarter</u>	<u>3<sup>rd</sup> Quarter</u>	<u>4<sup>th</sup> Quarter</u>
	(U.S. dollars in millions, except per share amounts)							
Revenue	\$ 213.6	\$ 227.0	\$ 215.6	\$ 223.6	\$ 210.2	\$ 218.6	\$ 224.2	\$ 232.6
Gross profit	179.3	188.4	178.7	184.0	167.7	175.3	178.3	186.2
Operating income	21.5	25.3	23.9	19.7	13.0	20.2	19.7	18.6

Net income	14.9	15.7	15.0	16.2	12.6	11.6	12.5	13.6
Net income per share:								
Basic	0.17	0.18	0.18	0.19	0.15	0.14	0.15	0.16
Diluted	0.17	0.18	0.18	0.19	0.15	0.14	0.15	0.16

## Currency Risk and Exchange Rate Information

A majority of the Company's revenue and many of the Company's expenses are recognized primarily outside of the United States except for inventory purchases which are primarily transacted in U.S. dollars from vendors in the United States. Each subsidiary's local currency is considered the functional currency. All revenue and expenses are translated at weighted average exchange rates for the periods reported. Therefore, the Company's reported revenue and earnings will be positively impacted by a weakening of the U.S. dollar and will be negatively impacted by a strengthening of the U.S. dollar. In early 2002, the yen depreciated in value relative to the U.S. dollar. If such relative values of the yen continue throughout 2002, the Company's reported revenue and earnings will be negatively impacted.

Given the uncertainty of exchange rate fluctuations, the Company cannot estimate the effect of these fluctuations on the Company's future business, product pricing, results of operations or financial condition. However, because a majority of the Company's revenue is realized in local currencies and the majority of the Company's cost of sales is denominated in U.S. dollars, the Company's gross profits will be positively affected by a weakening in the U.S. dollar and will be negatively affected by strengthening in the U.S. dollar. The Company seeks to reduce its exposure to fluctuations in foreign exchange rates through the use of foreign currency exchange contracts, through intercompany loans of foreign currency and through its Japanese yen denominated debt. The Company does not use such derivative financial instruments for trading or speculative purposes. The Company regularly monitors its foreign currency risks and periodically takes measures to reduce the impact of foreign exchange fluctuations on the Company's operating results.

As of January 1, 2001, the Company adopted Statement of Financial Accounting Standard No. 133 ("SFAS 133"), *Accounting for Derivative Instruments and Hedging Activities*. The adoption of SFAS 133 did not have a significant impact on the Company's Consolidated Financial Statements. SFAS 133 requires companies to recognize all derivatives as either assets or liabilities, with the instruments measured at fair value. Changes in the fair value of derivatives are recorded each period in current earnings or other comprehensive income, depending on the intended use of the derivative and its resulting designation. The Company's foreign currency derivatives are comprised of over-the-counter forward contracts with major international financial institutions. As of December 31, 2001, the Company had \$55.0 million of such contracts with expiration dates from January 2002 to September 2002. All such contracts were denominated in Japanese yen. For the year ended December 31, 2001, the Company recorded \$7.6 million of gains in operating income, and \$8.8 million in other comprehensive income related to its forward contracts. Based on the Company's foreign exchange contracts at December 31, 2001, the impact of a 10% appreciation or 10% depreciation of the U.S. dollar against the Japanese yen would not represent a material potential loss in fair value, earnings or cash flows against such contracts. This potential loss does not consider the underlying foreign currency transaction or translation exposures of the Company.

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Following are the weighted average currency exchange rates of US \$1 into local currency for each of the Company's international or foreign markets in which revenue exceeded US \$5.0 million for at least one of the quarters listed:

	1999				2000				2001			
	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter	1 <sup>st</sup> Quarter	2 <sup>nd</sup> Quarter	3 <sup>rd</sup> Quarter	4 <sup>th</sup> Quarter
Japan <sup>(1)</sup>	116.8	120.8	112.4	104.1	107.1	106.7	107.7	110.1	118.3	122.6	121.5	123.8
Taiwan	32.6	32.7	32.0	31.7	30.8	30.6	31.1	32.4	32.5	33.4	34.6	34.5
Hong Kong	7.8	7.8	7.8	7.8	7.8	7.8	7.8	7.8	7.8	7.8	7.8	7.8
South Korea	1,197.6	1,189.4	1,195.2	1,170.9	1,124.8	1,115.6	1,115.4	1,165.0	1,272.5	1,305.5	1,291.6	1,287.1
Singapore <sup>(2)</sup>	-	-	-	-	-	-	-	-	1.7	1.8	1.8	1.8

(1) As of March 1, 2002 the exchange rate of US \$1 into the Japanese yen was approximately 133.6.

(2) The Company commenced operations in Singapore during the fourth quarter of 2000.

## Note Regarding Forward-Looking Statements

Management's Discussion and Analysis of Financial Condition and Results of Operations contains "forward-looking statements," which reflect the Company's current expectations and beliefs as of the date of this Report including, but not limited to:

- the belief that operations in Taiwan have stabilized;
- the belief that changes in the Company's compensation plan have helped strengthen the Company's active and executive distributors;
- the Company's belief that existing cash and future cash flow will be adequate to fund cash needs;
- the Company's belief that the capital or equity markets would provide funding on comparable terms to existing debt or even provide funding at all in the event of the Company needing to raise capital;
- the expectation the Company will spend approximately \$21 million for capital expenditures during 2002; and
- the anticipation that cash will be sufficient to pay future dividends and that the Board of Directors will continue to declare dividends in 2002.

In addition, the words or phrases, "will likely result," "expects," "anticipates," "will continue," "intends," "plans," "believes," "the Company or management believes," and similar expressions are intended to help identify forward-looking statements. The Company wishes to caution readers that the risks and uncertainties described below and the risks and factors described herein and in "Item 1 - Business -- Risk Factors" contain a more detailed discussion of the risks and uncertainties related to the Company's business) could cause the Company's actual results and

outcomes to differ materially from those discussed or anticipated. The Company assumes no obligation to update these forward-looking statements to reflect new events or any changes in its beliefs or expectations. Important factors, risks and uncertainties that might cause actual results to differ from those anticipated include, but are not limited to, those described below.

- a. The Taiwanese market is still subject to various adverse conditions, including economic challenges, high degree of competition in the direct sales industry, and an overall decline in the

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direct sales industry, all of which could continue to adversely affect anticipated results in this market.

- b. Because a majority of the Company's sales are generated from Japan, significant variations in operating results and liquidity could be caused by various factors, including, continued weakness in the Japanese yen, any increased competition in Japan or any worsening of economic conditions in Japan.
- c. The Company's results and cash position could also be negatively impacted by higher than anticipated expenses associated with the Company's promotional expenses including its continued Olympic sponsorship, its international convention planned for 2002 or the launch of planned products and initiatives, in particular those relating to technology, and any unanticipated expenses.
- d. The ability of the Company to retain its key and executive level distributors. The Company's operating results could be adversely affected if existing and new initiatives and products do not generate sufficient economic incentive to retain its existing distributors or to sponsor new distributors on a sustained basis.
- e. The Company experienced growth in revenue in 2001 through the opening of markets in Singapore and Malaysia. There can be no assurance that these markets will continue to grow or that the Company will be able to generate revenue in 2002 or future years through the opening of other new markets.
- f. Risks associated with the Company's new product offerings and initiatives planned for 2002 and future years could also adversely affect results, including:
- the risk that such products will not gain market acceptance or meet the Company's expectations,
  - the risk that sales from such product offerings could reduce sales of existing products and not generate significant incremental revenue growth or help increase distributor numbers and productivity, or
  - technological problems or any legal or regulatory restrictions that might delay or prevent the Company from offering its new products into all of its markets or limit the ability of the Company to effectively market such products.
- g. Uncertainties regarding regulatory risks associated with the Company's business and product offerings, including any restrictions or challenges to the Company's products or marketing activities.
- h. The Company's operations could also be affected by the following risks:
- adverse business or political conditions, particularly given recent global events,
  - competitive pressures and the maturity of the direct sales channel in certain of the Company's markets,
  - adverse publicity concerning the Company's business, products or industry, including recent adverse press regarding the use of nutritional supplements by athletes, or
  - current restrictions on direct selling activities in China.

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#### **ITEM 7A. MANAGEMENT'S QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK**

The information required by Item 7A of Form 10-K is incorporated herein by reference from the information contained in the Item 7 "Management's Discussion and Analysis of Financial Condition and Results of Operations-Currency Risk and Exchange Rate Information" and Note 15 to the Consolidated Financial Statements.

#### **ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA**

Financial Statements. Set forth below is the index to the Financial Statements included in this Item 8:

	<u>Page</u>
Consolidated Balance Sheets at December 31, 2000 and 2001	47
Consolidated Statements of Income for the years ended December 31, 1999, 2000 and 2001	48
Consolidated Statements of Stockholders' Equity for the years ended December 31, 1999, 2000 and 2001	49
Consolidated Statements of Cash Flows for the years ended December 31, 1999, 2000 and 2001	50
Notes to Consolidated Financial Statements	51

**Financial Statement Schedules:** Financial statement schedules have been omitted because they are not required or are not applicable, or because the required information is shown in the financial statements or notes thereto.

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**NU SKIN ENTERPRISES, INC.**  
**Consolidated Balance Sheets**  
(U.S. dollars in thousands, except share amounts)

	<u>December 31,</u>	
	<u>2000</u>	<u>2001</u>
<b>ASSETS</b>		
Current assets		
Cash and cash equivalents	\$ 63,996	\$ 75,923
Accounts receivable	18,191	19,318
Related parties receivable	13,176	12,961
Inventories, net	82,015	84,255
Prepaid expenses and other	<u>44,513</u>	<u>45,404</u>
	221,891	237,861
Property and equipment, net	60,562	57,355
Other assets, net	<u>308,350</u>	<u>287,136</u>
Total assets	<u>\$ 590,803</u>	<u>\$ 582,352</u>
<b>LIABILITIES AND STOCKHOLDERS' EQUITY</b>		
Current liabilities		
Accounts payable	\$ 15,837	\$ 14,733
Accrued expenses	74,199	63,493
Related parties payable	<u>9,020</u>	<u>7,122</u>
	99,056	85,348
Long-term debt	84,884	73,718
Other liabilities	<u>40,130</u>	<u>43,396</u>
Total liabilities	<u>224,070</u>	<u>202,462</u>
Stockholders' equity		
Class A common stock - 500,000,000 shares authorized, \$.001 par value, 31,338,676 and 33,615,230 shares issued and outstanding	31	33
Class B common stock - 100,000,000 shares authorized, \$.001 par value, 53,408,951 and 48,849,040 shares issued and outstanding	54	49
Additional paid-in capital	106,284	88,953
Accumulated other comprehensive income	(45,347)	(49,485)
Retained earnings	306,458	340,340
Deferred compensation	<u>(747)</u>	<u>—</u>
	<u>366,733</u>	<u>379,890</u>
Total liabilities and stockholders' equity	<u>\$ 590,803</u>	<u>\$ 582,352</u>

The accompanying notes are an integral part of these consolidated financial statements.

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**NU SKIN ENTERPRISES, INC.**  
**Consolidated Statements of Income**  
(U.S. dollars in thousands, except per share amounts)

	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
Revenue	\$ 894,249	\$ 879,758	\$ 885,621
Cost of sales	<u>151,681</u>	<u>149,342</u>	<u>178,083</u>

Gross profit	<u>742,568</u>	<u>730,416</u>	<u>707,538</u>
Operating expenses:			
Distributor incentives	346,951	345,259	347,452
Selling, general and administrative	<u>265,770</u>	<u>294,744</u>	<u>288,605</u>
Total operating expenses	<u>612,721</u>	<u>640,003</u>	<u>636,057</u>
Operating income	129,847	90,413	71,481
Other income (expense), net	<u>(1,411)</u>	<u>5,993</u>	<u>8,380</u>
Income before provision for income taxes	128,436	96,406	79,861
Provision for income taxes (Note 13)	<u>41,742</u>	<u>34,706</u>	<u>29,548</u>
Net income	<u>\$ 86,694</u>	<u>\$ 61,700</u>	<u>\$ 50,313</u>
Net income per share (Note 2):			
Basic	\$ 1.00	\$ .72	\$ .60
Diluted	\$ .99	\$ .72	\$ .60
Weighted average common shares outstanding (000s):			
Basic	87,081	85,401	83,472
Diluted	87,893	85,642	83,915

The accompanying notes are an integral part of these consolidated financial statements.

**NU SKIN ENTERPRISES, INC.**  
**Consolidated Statements of Stockholders' Equity**  
(U.S. dollars in thousands, except share amounts)

	<u>Class A Common Stock</u>	<u>Class B Common Stock</u>	<u>Additional Paid-In Capital</u>	<u>Accumulated Other Comprehensive Income</u>	<u>Retained Earnings</u>	<u>Deferred Compensation</u>	<u>Total Stockholders' Equity</u>
Balance at January 1, 1999	\$ 34	\$ 55	\$ 146,781	\$ (43,604)	\$ 158,064	\$ (6,688)	\$ 254,642
Net income	—	—	—	—	86,694	—	86,694
Foreign currency translation adjustments	—	—	—	(4,616)	—	—	(4,616)
Total comprehensive income	—	—	—	(4,616)	86,694	—	82,078
Repurchase of 1,985,000 shares of Class A common stock (Note 11)	(2)	—	(26,860)	—	—	—	(26,862)
Amortization of deferred compensation	—	—	—	—	—	3,692	3,692
Termination of Nu Skin USA license fee (Note 3)	—	—	(6,444)	—	—	(650)	(7,094)
Issuance of employee stock awards and options	—	—	3,252	—	—	(3,252)	—
Exercise of distributor and employee stock options	—	—	2,923	—	—	—	2,923
Balance at December 31, 1999	<u>32</u>	<u>55</u>	<u>119,652</u>	<u>(48,220)</u>	<u>244,758</u>	<u>(6,898)</u>	<u>309,379</u>
Net income	—	—	—	—	61,700	—	61,700
Foreign currency translation adjustments	—	—	—	2,873	—	—	2,873
Total comprehensive income	—	—	—	2,873	61,700	—	64,573
Repurchase of 1,893,000 shares of Class A common stock (Note 11)	(2)	—	(12,763)	—	—	—	(12,765)
Conversion of shares	1	(1)	—	—	—	—	—
Amortization of deferred compensation	—	—	—	—	—	5,252	5,252
Exercise of distributor and employee stock options	—	—	294	—	—	—	294
Forfeiture of employee stock awards and options	—	—	(899)	—	—	899	—
Balance at December 31, 2000	<u>31</u>	<u>54</u>	<u>106,284</u>	<u>(45,347)</u>	<u>306,458</u>	<u>(747)</u>	<u>366,733</u>
Net income	—	—	—	—	50,313	—	50,313
Foreign currency translation adjustments	—	—	—	(8,298)	—	—	(8,298)
Net unrealized gains on foreign currency cash flow hedges	—	—	—	8,776	—	—	8,776
Net gain reclassified into current earnings	—	—	—	(4,616)	—	—	(4,616)
Total comprehensive income	—	—	—	(4,616)	50,313	—	46,175
Repurchase of 2,491,000 shares of Class A common stock (Note 11)	(3)	—	(18,136)	—	—	—	(18,139)
Conversion of shares	5	(5)	—	—	—	—	—
Amortization of deferred compensation	—	—	—	—	—	747	747
Exercise of distributor and employee stock options	—	—	805	—	—	—	805
Dividends	—	—	—	—	(16,431)	—	(16,431)
Balance at December 31, 2001	<u>\$ 33</u>	<u>\$ 49</u>	<u>\$ 88,953</u>	<u>\$ (49,485)</u>	<u>\$ 340,340</u>	<u>\$ —</u>	<u>\$ 379,890</u>

The accompanying notes are an integral part of these consolidated financial statements.

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**NU SKIN ENTERPRISES, INC.**  
**Consolidated Statements of Cash Flows**  
(U.S. dollars in thousands)

	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
Cash flows from operating activities:			
Net income	\$ 86,694	\$ 61,700	\$ 50,313
Adjustments to reconcile net income to net cash provided by operating activities:			
Depreciation and amortization	29,515	32,350	31,679
Amortization of deferred compensation	3,692	5,252	747
Gain on sale	—	—	(2,328)
Changes in operating assets and liabilities:			
Accounts receivable	(3,776)	(31)	(1,127)
Related parties receivable	(4,441)	3,248	215
Inventories, net	(2,133)	3,736	(2,240)
Prepaid expenses and other	1,033	7,875	(891)
Other assets, net	(57,169)	(21,400)	8,491
Accounts payable	4,068	(6,848)	(1,104)
Accrued expenses	(40,868)	(40,492)	(10,706)
Related parties payable	448	(6,039)	(1,898)
Other liabilities	<u>13,236</u>	<u>4,037</u>	<u>3,266</u>
Net cash provided by operating activities	<u>30,299</u>	<u>43,388</u>	<u>74,417</u>
Cash flows from investing activities:			
Purchase of property and equipment	(29,719)	(23,030)	(15,126)
Purchase of Big Planet, net of cash acquired (Note 4)	(13,571)	—	—
Payments for lease deposits	(2,206)	(195)	—
Receipt of refundable lease deposits	<u>1,508</u>	<u>255</u>	<u>—</u>
Net cash used in investing activities	<u>(43,988)</u>	<u>(22,970)</u>	<u>(15,126)</u>
Cash flows from financing activities:			
Payments on long-term debt	(14,545)	(142,821)	—
Dividends	—	—	(16,431)
Termination of Nu Skin USA license fee (Note 3)	(10,000)	—	—
Payment to stockholders under the NSI Acquisition (Note 5)	(25,000)	—	—
Proceeds from long-term debt	—	90,000	—
Repurchase of shares of common stock	(26,862)	(12,765)	(18,139)
Exercise of distributor and employee stock options	<u>2,923</u>	<u>294</u>	<u>805</u>
Net cash used in financing activities	<u>(73,484)</u>	<u>(65,292)</u>	<u>(33,765)</u>
Effect of exchange rate changes on cash	<u>8,508</u>	<u>(1,292)</u>	<u>(13,599)</u>
Net increase (decrease) in cash and cash equivalents	(78,665)	(46,166)	11,927
Cash and cash equivalents, beginning of period	<u>188,827</u>	<u>110,162</u>	<u>63,996</u>
Cash and cash equivalents, end of period	<u>\$ 110,162</u>	<u>\$ 63,996</u>	<u>\$ 75,923</u>

The accompanying notes are an integral part of these consolidated financial statements.

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## 1. The Company

Nu Skin Enterprises, Inc. (the "Company") is a leading, global, direct selling company that develops and distributes premium-quality, innovative personal care products and nutritional supplements. The Company also distributes technology and telecommunications products and services. The Company's operations are divided into four segments: North Asia, which consists of Japan and South Korea; North America, which consists of the United States and Canada; Southeast Asia, which consists of Australia, Hong Kong (including Macau), Malaysia, New Zealand, the PRC (China), the Philippines, Singapore, Taiwan and Thailand; and Other Markets, which consists of the Company's markets in Brazil, Europe, Guatemala and Mexico (the Company's subsidiaries operating in these countries are collectively referred to as the "Subsidiaries").

As discussed in Note 3, on March 8, 1999, Nu Skin International, Inc. ("NSI") a subsidiary of the Company, terminated its distribution license and various other license agreements and other intercompany agreements with Nu Skin USA, Inc. ("Nu Skin USA"). Also in March 1999, through a newly formed wholly-owned subsidiary, the Company acquired selected assets of Nu Skin USA. In May 1999, the Company acquired Nu Skin Canada, Inc., Nu Skin Mexico, Inc. and Nu Skin Guatemala, Inc. (collectively, the "North American Affiliates").

As discussed in Note 4, the Company completed the Big Planet Acquisition on July 13, 1999, which enabled the Company to provide marketing and distribution of technology-based products and services.

## 2. Summary of Significant Accounting Policies

### *Consolidation*

The consolidated financial statements include the accounts of the Company and the Subsidiaries. All significant intercompany accounts and transactions are eliminated in consolidation.

### *Use of estimates*

The preparation of these financial statements in conformity with accounting principles generally accepted in the United States of America required management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenue and expenses during the reporting period. Significant estimates include reserves for product returns, obsolete inventory and taxes. Actual results could differ from these estimates.

### *Cash and cash equivalents*

Cash equivalents are short-term, highly liquid instruments with original maturities of 90 days or less.

### *Inventories*

Inventories consist primarily of merchandise purchased for resale and are stated at the lower of cost or market, using the first-in, first-out method. The Company had reserves for obsolete inventory totaling \$7.2 million, \$2.8 million and \$6.7 million as of December 31, 1999, 2000 and 2001, respectively.

## **Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements**

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### *Property and equipment*

Property and equipment are recorded at cost and depreciated using the straight-line method over the following estimated useful lives:

Furniture and fixtures	5 - 7 years
Computers and equipment	3 - 5 years
Leasehold improvements	Shorter of estimated useful life or lease term
Vehicles	3 - 5 years

Expenditures for maintenance and repairs are charged to expense as incurred.

### *Other assets*

Other assets consist primarily of deferred tax assets, deposits for noncancelable operating leases, distribution rights, goodwill and long-term intangibles. The goodwill and intangible assets and distribution rights have been amortized on a straight-line basis over their estimated useful lives ranging from 4 to 20 years. The Company assesses the recoverability of long-lived assets by determining whether the amortization of the balance over its remaining life can be recovered through undiscounted future operating cash flows attributable to the assets.

In July 2001, the Financial Accounting Standards Board ("FASB") issued Statements of Financial Accounting Standards No. 141 ("SFAS 141"), *Business Combinations*, and No. 142 ("SFAS 142"), *Goodwill and Other Intangible Assets*. SFAS 141 requires that the purchase method of accounting be used for all business combinations initiated after June 30, 2001 as well as all purchase method business combinations completed after June 30, 2001. SFAS 141 also specifies criteria that must be met in order for intangible assets acquired in a purchase method business combination to be recognized and reported apart from goodwill. SFAS 142 will require that goodwill and intangible assets with indefinite useful lives no longer be amortized, but instead tested for impairment at least annually in accordance with the provisions of SFAS 142. SFAS 142 will also require that intangible assets with definite lives be amortized over their respective estimated useful lives to their estimated residual values, and reviewed for impairment in accordance with SFAS No. 144, *Accounting for the Impairment or Disposal of Long-Lived Assets*. The Company adopted the provisions of SFAS 141 immediately and SFAS 142 effective January 1, 2002.

As of January 1, 2002, the Company expects to have unamortized goodwill in the amount of approximately \$112.8 million, and unamortized identifiable intangible assets in the amount of approximately \$38.6 million. Amortization expense related to the unamortized goodwill and

unamortized identifiable intangible assets was \$9.7 million for the year ended December 31, 2001. Any transitional impairment losses will be required to be recognized as the cumulative effect of a change in accounting principle. The Company has made a preliminary estimate of the impact of SFAS 141 and 142 and has determined that SFAS 141 and 142 will not have a significant effect from impairment on its financial statements.

#### *Revenue recognition*

Revenue is recognized when products are shipped, which is when title passes to independent distributors who are the Company's customers. A reserve for product returns is accrued based on historical experience. The Company generally requires cash or credit card payment at the point of sale. The Company has determined that no allowance for doubtful accounts is necessary. Amounts received

### **Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements**

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prior to shipment and title passage to distributors are recorded as deferred revenue. In addition, the Company operates a professional employer organization ("PEO") that outsources personnel and benefits to small businesses in the United States. Revenue for the PEO consists of service fees paid by its clients. Cost of sales for the PEO includes the direct costs (such as salaries, wages and other benefits) associated with the worksite employees.

In December 1999, the Securities and Exchange Commission staff issued Staff Accounting Bulletin No. 101 ("SAB 101"), *Revenue Recognition in Financial Statements*, which provides guidance on the recognition, presentation and disclosure of revenue in financial statements. The implementation of SAB 101 did not significantly impact the Company's revenue recognition policies.

#### *Research and development*

The Company's research and development activities are conducted primarily through its Pharmanex division. Research and development costs are expensed as incurred.

#### *Income taxes*

The Company has adopted Statement of Financial Accounting Standards No. 109 ("SFAS 109"), *Accounting for Income Taxes*. Under SFAS 109, the liability method is used in accounting for income taxes. Under this method, deferred tax assets and liabilities are determined based on the differences between financial reporting and tax bases of assets and liabilities and are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse.

#### *Net income per share*

The Company computes earnings per share under Statement of Financial Accounting Standards No. 128 ("SFAS 128"), *Earnings per Share*. SFAS 128 specifies the computation, presentation and disclosure requirements for earnings per share data. SFAS 128 also requires the presentation of both basic and diluted earnings per share data for entities with complex capital structures. Diluted earnings per share data gives effect to all dilutive potential common shares that were outstanding during the periods presented.

#### *Foreign currency translation*

Most of the Company's business operations occur outside the United States. Each Subsidiary's local currency is considered the functional currency. Since a substantial portion of the Company's inventories are purchased with U.S. dollars in the United States and since the Company is incorporated in the United States, all assets and liabilities are translated into U.S. dollars at exchange rates existing at the balance sheet dates, revenue and expenses are translated at weighted average exchange rates, and stockholders' equity is recorded at historical exchange rates. The resulting foreign currency translation adjustments are recorded as a separate component of stockholders' equity in the consolidated balance sheets, and transaction gains and losses are included in other income and expense in the consolidated financial statements.

#### *Fair value of financial instruments*

The fair value of financial instruments including cash and cash equivalents, accounts receivable, related parties receivable, accounts payable, related parties payable and notes payable approximate book values. The carrying amount of long-term debt approximates fair value because the applicable interest

### **Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements**

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rates approximate current market rates. Fair value estimates are made at a specific point in time, based on relevant market information.

#### *Stock-based compensation*

The Company measures compensation expense for its stock-based employee compensation plans using the intrinsic value method prescribed by Accounting Principles Board Opinion No. 25 ("APB 25"), *Accounting for Stock Issued to Employees*, and provides pro forma disclosures of net income and net income per share as if the fair value based method prescribed by Statement of Financial Accounting Standards No. 123 ("SFAS 123"), *Accounting for Stock-Based Compensation*, has been applied in measuring compensation expense (Note 12).



The Company has adopted Statement of Financial Accounting Standards No. 130 ("SFAS 130"), *Reporting Comprehensive Income*. Comprehensive income is defined as the change in equity of a business enterprise during a period from transactions and other events and circumstances from nonowner sources, and it includes all changes in equity during a period except those resulting from investments by owners and distributions to owners.

*Accounting for derivative instruments and hedging activities*

The Company has adopted Statement of Financial Accounting Standards No. 133 ("SFAS 133"), *Accounting for Derivative Instruments and Hedging Activities*. The statement requires companies to recognize all derivatives as either assets or liabilities, with the instruments measured at fair value. Changes in the fair value of derivatives are recorded each period in current earnings or other comprehensive income, depending on the intended use of the derivative and its resulting designation. The adoption of SFAS 133 did not have a significant impact on the Company's consolidated financial statements. (Note 15)

*New pronouncements*

In September 2001, the EITF issued EITF 01-09, *Accounting for Consideration Given by a Vendor to a Customer or Reseller of the Vendor's Products*, which addresses the accounting for consideration given by a vendor to a customer or a reseller of the vendor's products. The Company is currently evaluating the impact of this guidance on its financial statements.

In August 2001, the FASB issued SFAS No. 143 ("SFAS 143"), *Accounting for Asset Retirement Obligations*, which addresses the accounting and reporting for obligations associated with the retirement of tangible long-lived assets and the associated retirement costs. SFAS 143 is effective January 1, 2003. The Company is currently evaluating the impact of this new guidance.

In October 2001, the FASB issued SFAS No. 144 ("SFAS 144"), *Accounting for the Impairment or Disposal of Long-Lived Assets*, which addresses the accounting and reporting for the impairment and disposal of long-lived assets. The Company has adopted SFAS 144 effective January 1, 2002 and such adoption will not have a significant effect on its financial statements.

**Nu Skin Enterprises, Inc.  
Notes to Consolidated Financial Statements**

**3. Acquisition of Certain Assets of Nu Skin USA, Inc.**

On March 8, 1999, NSI terminated its distribution license and various other license agreements and other intercompany agreements with Nu Skin USA and paid Nu Skin USA a \$10.0 million termination fee. Also, on that same date, through a newly formed wholly-owned subsidiary, the Company acquired selected assets of Nu Skin USA in exchange for assuming various accounts payable of Nu Skin USA. The acquisition of the selected assets and assumption of liabilities and the termination of these agreements has been recorded for the consideration paid, except for the portion of Nu Skin USA which is under common control of a group of stockholders, which portion has been recorded at predecessor basis.

**4. Acquisition of Big Planet, Inc.**

On July 13, 1999, the Company completed the acquisition of Big Planet, Inc., ("Big Planet") for \$29.2 million, which consisted of a cash payment of \$14.6 million and a note payable of \$14.6 million (the "Big Planet Acquisition"). In addition, the Company loaned Big Planet approximately \$4.5 million immediately prior to the closing to redeem the option holders and certain management stockholders of Big Planet.

The Big Planet Acquisition was accounted for by the purchase method of accounting. The Company recorded intangible assets of \$47.0 million that has been amortized over a period of 20 years. The Company recorded amortization on the intangible assets relating to the Big Planet Acquisition of \$1.1 million, \$2.3 million and \$2.5 million during 1999, 2000 and 2001, respectively.

**5. Related Party Transactions**

*Scope of related party activity*

Prior to the acquisition of certain assets of Nu Skin USA (see Note 3) and the acquisition of the North American Affiliates in 1999, the Company had transactions with these affiliated entities. The transactions with these entities were as follows: (1) the Company sold products and marketing materials; (2) the Company collected trademark royalty fees from these entities on products bearing NSI trademarks that were not purchased from NSI; (3) the Company entered into a distribution agreement with each independent distributor; (4) the Company collected license fees from these entities for the right to use the distributors, and for the right to use the Company's distribution system and other related intangibles; (5) the Company operates a global commission plan whereby distributors' commissions are determined by aggregate worldwide purchases made by downline distributors. Thus, commissions on purchases from the Company earned by distributors located in geographic areas outside those held by the Company were remitted to the Company, which then forwarded these commissions to the distributors; (6) the Company collected fees for management and support services provided to these entities. The sales revenue, royalties, licenses and management fees charged to the affiliated entities prior to the acquisition were recorded as revenue in the consolidated statements of income and totaled \$13.6 million for the year ended December 31, 1999.

*Payment to stockholders under the NSI Acquisition*

In March 1998, the Company completed the acquisition (the "NSI Acquisition") of the capital stock of NSI and certain other NSI affiliates (the "Acquired Entities"). Pursuant to the terms of the NSI Acquisition, NSI and the Company were required to pay certain contingent payments if specific earnings growth targets were met. The Company and NSI met specific earnings growth targets in 1998 resulting in a contingent payment to the stockholders of the Acquired Entities of \$25.0 million, which was paid in

**Nu Skin Enterprises, Inc.**  
**Notes to Consolidated Financial Statements**

1999. In 1999, 2000 and 2001, the Company did not meet specific earnings growth targets. Consequently, no other payments are due or will be due as the contingent earnout expired December 31, 2001.

*Certain relationships with stockholder distributors*

Two major stockholders of the Company have been independent distributors for the Company since 1984. These stockholders are partners in an entity which receives substantial commissions from the Company, including commissions relating to sales within the countries in which the Company operates. By agreement, the Company pays commissions to this partnership at the highest level of distributor compensation to allow the stockholders to use their expertise and reputations in network marketing to further develop the Company's distributor force, rather than focusing solely on their own distributor organizations. The commissions paid to this partnership relating to sales within the countries in which the Company operates were \$3.3 million, \$3.4 million and \$3.5 million for the years ended December 31, 1999, 2000 and 2001, respectively.

*Loan to stockholder*

The Company has loaned \$5.0 million to a non-management stockholder. The loan is partly secured by 349,406 shares of Class B common stock. Interest accrues at a rate of 6.0% per annum on this loan. The loan balance, including accrued interest, totaled \$6.0 million and \$6.4 million at December 31, 2000 and 2001, respectively.

*Lease agreements*

The Company leases corporate office and warehouse space from two related party entities. Total lease payments to these two affiliated entities were \$2.8 million, \$2.7 million and \$3.3 million for the years ended December 31, 1999, 2000 and 2001, respectively.

**6. Property and Equipment**

Property and equipment are comprised of the following (U.S. dollars in thousands):

	<u>December 31,</u>	
	<u>2000</u>	<u>2001</u>
Furniture and fixtures	\$ 35,995	\$ 36,089
Computers and equipment	71,377	70,869
Leasehold improvements	23,797	25,479
Vehicles	<u>1,187</u>	<u>1,656</u>
	132,356	134,093
Less: accumulated depreciation	<u>(71,794)</u>	<u>(76,738)</u>
	<u>\$ 60,562</u>	<u>\$ 57,355</u>

Depreciation of property and equipment totaled \$14.1 million, \$17.0 million and \$16.6 million for the years ended December 31, 1999, 2000 and 2001, respectively.

**Nu Skin Enterprises, Inc.**  
**Notes to Consolidated Financial Statements**

**7. Other Assets**

Other assets consist of the following (U.S. dollars in thousands):

	<u>December 31,</u>	
	<u>2000</u>	<u>2001</u>
Goodwill and intangibles	\$ 212,480	\$ 217,431
Deposits for noncancelable operating leases	11,837	12,353
Deferred taxes	88,551	83,412
Other	<u>26,063</u>	<u>19,572</u>
	338,931	332,768
Less: accumulated amortization	<u>(30,581)</u>	<u>(45,632)</u>
	<u>\$ 308,350</u>	<u>\$ 287,136</u>

Amortization of goodwill and intangible assets totaled \$15.3 million, \$15.3 million and \$15.1 million for the years ended December 31, 1999, 2000 and 2001, respectively.

**8. Accrued Expenses**

Accrued expenses consist of the following (U.S. dollars in thousands):

	<u>December 31,</u>	
	<u>2000</u>	<u>2001</u>
Income taxes payable	\$ 10,756	\$ 7,030
Accrued commission payments to distributors	26,425	25,947
Other taxes payable	13,016	10,012
Other accruals	<u>24,002</u>	<u>20,504</u>
	<u>\$ 74,199</u>	<u>\$ 63,493</u>

## 9. Long-Term Debt

On October 12, 2000, the Company entered into a loan for \$87.1 million to refinance the remaining balance of its existing credit facility with the proceeds of a private placement of 9.7 billion Japanese yen of ten-year senior notes (the "Notes") to The Prudential Insurance Company of America. The Notes bear interest at an effective rate of 3.03% per annum and are due October 2010, with principal payments beginning October 2004. As of December 31, 2001, the outstanding balance on the Notes was 9.7 billion Japanese yen, or \$73.7 million.

Interest expense relating to the long-term debt totaled \$5.7 million, \$4.8 million and \$2.5 million for the years ended December 31, 1999, 2000 and 2001, respectively.

The Notes contain other terms and conditions and affirmative and negative financial covenants customary for credit facilities of this type. As of December 31, 2001, the Company is in compliance with all financial covenants under the Notes.

On May 10, 2001, the Company entered into a \$60.0 million revolving credit agreement (the "Revolving Credit Facility") with Bank of America, N.A. and Bank One, N.A. for which Bank of America, N.A. acted as agent. The proceeds may be used for working capital, capital expenditures and other purposes including repurchases of the Company's outstanding shares of Class A common stock. There were no outstanding balances relating to the Revolving Credit Facility as of December 31, 2001.

## Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements

The Revolving Credit Facility is reduced to \$45.0 million on May 10, 2002 and is further reduced to \$30.0 million on May 10, 2003. The Revolving Credit Facility is set to expire on May 10, 2004.

Maturities of long-term debt at December 31, 2001 are as follows (U.S. dollars in thousands):

<u>Year Ending December 31,</u>	
2002-2003	\$ —
2004	10,531
2005	10,531
2006	10,531
Thereafter	<u>42,125</u>
Total	<u>\$ 73,718</u>

## 10. Lease Obligations

The Company leases office space and computer hardware under noncancelable long-term operating leases. Most leases include renewal options of up to three years. Minimum future operating lease obligations at December 31, 2001 are as follows (U.S. dollars in thousands):

<u>Year Ending December 31,</u>	
2002	\$ 8,454
2003	5,067
2004	3,022
2005	2,716
2006	2,718
Thereafter	<u>15,011</u>
Total minimum lease payments	<u>\$ 36,988</u>

Rental expense for operating leases totaled \$18.4 million, \$20.7 million and \$19.2 million for the years ended December 31, 1999, 2000 and 2001, respectively.

## 11. Capital Stock

The Company's authorized capital stock consists of 25 million shares of preferred stock, par value \$.001 per share, 500 million shares of Class A common stock, par value \$.001 per share and 100 million shares of Class B common stock, par value \$.001 per share. The shares of Class A common stock and Class B common stock are identical in all respects, except for voting rights and certain conversion rights and transfer restrictions, as follows: (1) each share of Class A common stock entitles the holder to one vote on matters submitted to a vote of the Company's stockholders and each share of Class B common stock entitles the holder to ten votes on each such matter; (2) stock dividends of Class A common stock may be paid only to holders of Class A common stock and stock dividends of Class B common stock may be paid only to holders of Class B common stock; (3) if a holder of Class B common stock transfers such shares to a person other than a permitted transferee, as defined in the Company's Certificate of Incorporation, such shares will be converted automatically into shares of Class A common stock; and (4) Class A common stock has no conversion rights; however, each share of Class B common stock is convertible into one share of Class A common stock, in whole or in part, at any time at the option of the holder.

**Nu Skin Enterprises, Inc.**  
**Notes to Consolidated Financial Statements**

*Weighted average common shares outstanding*

The following is a reconciliation of the weighted average common shares outstanding for purposes of computing basic and diluted net income per share (in thousands):

	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
Basic weighted average common shares outstanding	87,081	85,401	83,472
Effect of dilutive securities:			
Stock awards and options	<u>812</u>	<u>241</u>	<u>443</u>
Diluted weighted average common shares outstanding	<u>87,893</u>	<u>85,642</u>	<u>83,915</u>

*Repurchase of common stock*

Since August 1998, the board of directors has authorized the Company to repurchase up to \$70.0 million of the Company's outstanding shares of Class A common stock. The repurchases are used primarily to fund the Company's equity incentive plans. During the years ended December 31, 1999, 2000 and 2001, the Company repurchased approximately 1.4 million, 1.9 million and 2.5 million shares of Class A common stock for an aggregate price of approximately \$17.1 million, \$12.8 million and \$18.1 million, respectively. As of December 31, 2001, the Company had repurchased a total of approximately 6.7 million shares of Class A common stock for an aggregate price of approximately \$59.0 million.

*Conversion of common stock*

During 2000 and 2001, the holders of the Class B common stock converted approximately 1.2 million and 4.6 million shares of Class B common stock to Class A common stock, respectively.

**12. Equity Incentive Plans**

During the year ended December 31, 1996, the Company's board of directors adopted the Nu Skin Enterprises, Inc., 1996 Stock Incentive Plan (the "1996 Stock Incentive Plan"). The 1996 Stock Incentive Plan provides for granting of stock awards and options to purchase common stock to executives, other employees, independent consultants and directors of the Company and its Subsidiaries. The Company has a total of 8.0 million shares available for grant under this plan. As of December 31, 2001, approximately 4.0 million shares have been granted.

On September 17, 2001, the Company offered to exchange certain outstanding options to purchase shares of Nu Skin's Class A common stock held by eligible optionholders granted under the 1996 Stock Incentive Plan having an exercise price equal to or greater than \$10.00 per share for new options to purchase shares of Nu Skin's Class A common stock. A total of 90 employees tendered 950,125 options to purchase the Company's Class A common stock, which options were cancelled on October 17, 2001, in return for commitments of new grants on the grant date of April 19, 2002.

Effective November 21, 1996, the Company implemented a one-time distributor equity incentive program which provided for grants of options to selected distributors for the purchase of 1,605,000 shares of the Company's Class A common stock. The options are exercisable at a price of \$5.75 per share and vested one year from the effective date. The Company recorded distributor stock expense of \$19.9 million over the vesting period. As of December 31, 2001, approximately 778,000 of these options had been exercised.

**Nu Skin Enterprises, Inc.**  
**Notes to Consolidated Financial Statements**

Pursuant to the acquisition of Pharmanex in 1998, the Company assumed outstanding options under two stock option plans. The options were converted into the right to purchase approximately 261,000 shares of Class A common stock.

A summary of the Company's stock option plans as of December 31, 1999, 2000 and 2001 and changes during the years then ended, is presented below:

	<u>1999</u>		<u>2000</u>		<u>2001</u>	
	Shares <u>    (in</u> <u>000s)</u>	Weighted Average Exercise <u>    Price</u>	Shares <u>    (in</u> <u>000s)</u>	Weighted Average Exercise <u>    Price</u>	Shares <u>    (in</u> <u>000s)</u>	Weighted Average Exercise <u>    Price</u>
Outstanding -						
beginning of year	3,642.0	\$ 10.80	5,039.9	\$ 13.44	5,838.9	\$ 10.89
Granted at fair value	2,194.8	17.20	1,983.5	7.40	902.5	7.49
Exercised	(410.2)	5.61	(22.3)	5.47	(138.0)	5.76
Forfeited/canceled	<u>(386.7)</u>	10.69	<u>(1,162.2)</u>	16.09	<u>(1,426.3)</u>	13.03
Outstanding -	5,039.9	13.44	5,838.9	10.89	5,177.1	9.84

end of year

Options exercisable at year-end	1,306.5	7.54	2,146.6	9.44	2,501.7	9.76
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The following table summarizes information concerning outstanding and exercisable options at December 31, 2001:

Exercise Price Range	Options Outstanding			Options Exercisable	
	Shares (in 000s)	Weighted Average Exercise Price	Weighted Average Years Remaining	Shares (in 000s)	Weighted Average Exercise Price
\$0.92 to \$5.75	1,174.0	\$ 4.89	5.04	1,174.0	\$ 4.89
\$6.56 to \$11.00	2,577.5	7.51	8.56	514.5	7.60
\$12.00 to \$16.00	506.1	13.28	7.36	290.7	13.38
\$17.00 to \$28.50	<u>919.5</u>	20.81	7.34	<u>522.5</u>	20.83
	5,177.1	9.84	7.43	2,501.7	9.76

The Company accounts for stock-based compensation in accordance with the provisions of APB 25. The Company recorded expense in the amount of \$579,000, \$703,000 and \$747,000 in 1999, 2000 and 2001, respectively, in connection with options granted under the Company's equity incentive plans. Had compensation expense been determined based on the fair value at the grant dates as prescribed in SFAS 123, the Company's results for the years ended December 31 would have been as follows:

	1999	2000	2001
Pro forma net income (in 000s)	\$ 78,184	\$ 56,216	\$ 48,427
Pro forma earnings per share:			
Basic	\$ 0.90	\$ 0.66	\$ 0.58
Diluted	\$ 0.89	\$ 0.66	\$ 0.58

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### Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements

The fair value for these options was estimated at the date of grant using a Black-Scholes option pricing model with the following weighted-average assumptions:

	1999	2000	2001
Risk-free interest rate	5.9 %	6.3 %	4.5 %
Expected life	2.7 years	3.8 years	2.9 years
Expected volatility	67.0 %	52.0 %	60.0 %
Expected dividend yield	—	—	2.8 %

The weighted-average grant date fair values of options granted during 1999, 2000 and 2001 were \$9.72, \$3.41 and \$3.12, respectively.

Since the Company's initial public offering in 1996, the Company has granted stock awards of its Class A common stock to employees. In total, approximately 686,000 shares were issued in this program, and the awards vested ratably over a one to four year period. The Company recorded compensation expense of \$2.7 million and \$2.8 million for the years ended December 31, 1999 and 2000, respectively, relating to these stock awards.

Effective February 1, 2000, the Company's board of directors adopted the Employee Stock Purchase Plan (the "Purchase Plan"), which provides for the issuance of a maximum of 200,000 shares of Class A common stock. Eligible employees can have up to 15% of their earnings withheld, up to certain maximums, to be used to purchase shares of the Company's Class A common stock on every April 30<sup>th</sup>, July 31<sup>st</sup>, October 31<sup>st</sup> or January 31<sup>st</sup> (the "Purchase Date"). The price of the Class A common stock purchased under the Purchase Plan will be equal to 85% of the lower of the fair market value of the Class A common stock on the commencement date of each three month offering period or Purchase Date. During 2001, approximately 19,000 shares were purchased at prices ranging from \$4.78 to \$6.29 per share. At December 31, 2001, approximately 161,000 shares were available under the Purchase Plan for future issuance.

### 13. Income Taxes

Consolidated income before provision for income taxes consists of income earned primarily from international operations. The provision for current and deferred taxes for the years ended December 31, 1999, 2000 and 2001 consists of the following (U.S. dollars in thousands):

	1999	2000	2001
Current			
Federal	\$ 3,030	\$ 1,677	\$ 1,812
State	3,030	1,589	2,078
Foreign	<u>56,165</u>	<u>36,503</u>	<u>25,529</u>
	62,225	39,769	29,419
Deferred			
Federal	(19,008)	4,337	3,330

State	(215)	836	(242)
Foreign	<u>(1,260)</u>	<u>(10,236)</u>	<u>(2,959)</u>
Provision for income taxes	\$ 41,742	\$ 34,706	\$ 29,548

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**Nu Skin Enterprises, Inc.**  
**Notes to Consolidated Financial Statements**

The principal components of deferred tax assets are as follows (U.S. dollars in thousands):

	<u>December 31,</u> <u>2000</u>	<u>December 31,</u> <u>2001</u>
Deferred tax assets		
Inventory differences	\$ 5,164	\$ 5,275
Foreign tax credit	60,278	47,689
Distributor stock options and employee stock awards	6,723	5,836
Capitalized legal and professional	1,427	1,089
Accrued expenses not deductible until paid	14,154	27,440
Withholding tax	2,142	2,072
Minimum tax credit	10,739	12,776
Net operating losses	<u>7,096</u>	<u>5,125</u>
Total deferred tax assets	<u>107,723</u>	<u>107,302</u>
Deferred tax liabilities:		
Foreign deferred tax	14,816	17,557
Exchange gains and losses	5,880	11,799
Cost of goods sold adjustment	3,220	1,845
Pharmanex intangibles step-up	18,880	17,130
Other	<u>6,149</u>	<u>6,566</u>
Total deferred tax liabilities	<u>48,945</u>	<u>54,897</u>
Valuation allowance	<u>—</u>	<u>—</u>
Deferred taxes, net	<u>\$ 58,778</u>	<u>\$ 52,405</u>

The actual tax rate for the years ended December 31, 1999, 2000 and 2001 compared to the statutory U.S. Federal tax rate is as follows:

	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
Income taxes at statutory rate	35.00%	35.00%	35.00%
Foreign tax credit limitation (benefit)	(7.77)	—	—
Non-deductible expenses	1.72	1.92	2.14
Branch remittance gains and losses	3.78	(.03)	(.85)
Other	<u>(.23)</u>	<u>(.89)</u>	<u>.71</u>
	<u>32.50%</u>	<u>36.00%</u>	<u>37.00%</u>

**14. Employee Benefit Plan**

The Company has a 401(k) defined contribution plan which permits participating employees to defer up to a maximum of 15% of their compensation, subject to limitations established by the Internal Revenue Code. Employees who work a minimum of 1,000 hours per year, who have completed at least one year of service and who are 21 years of age or older are qualified to participate in the plan. The Company matches 100% of the first 2% and 50% of the next 2% of each participant's contributions to the plan. Participant contributions are immediately vested. Company contributions vest based on the participant's years of service at 25% per year over four years. The Company's contribution totaled \$910,000, \$979,000 and \$1,038,000 for years ended December 31, 1999, 2000 and 2001, respectively.

**15. Derivative Financial Instruments**

The Company's Subsidiaries enter into significant transactions with each other and third parties which may not be denominated in the respective Subsidiaries' functional currencies. The Company

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**Nu Skin Enterprises, Inc.**  
**Notes to Consolidated Financial Statements**

seeks to reduce its exposure to fluctuations in foreign exchange rates through the use of foreign currency exchange contracts and through certain intercompany loans of foreign currency. The Company does not use such derivative financial instruments for trading or speculative purposes. The Company regularly monitors its foreign currency risks and periodically takes measures to reduce the impact of foreign exchange fluctuations on the Company's operating results. Gains and losses on certain intercompany loans of foreign currency are recorded as other income and expense in the consolidated statements of income.

At December 31, 2001 and December 31, 2000, the Company held forward contracts designated as foreign currency cash flow hedges with notional amounts totaling approximately \$55.0 million and \$28.9 million, respectively, to hedge foreign currency intercompany items. All such contracts were denominated in Japanese yen. As of January 1, 2001, the Company adopted SFAS 133. The adoption of SFAS 133 did not have a significant impact on the Company's Consolidated Financial Statements. The net gains on foreign currency cash flow hedges recorded in current earnings were \$7.6 million for the year ended December 31, 2001. Prior to the adoption of SFAS 133, the Company held foreign currency forward contracts which were marked to market and recorded net gains in other income of \$4.5 million for the year ended December 31, 2000 and recorded net losses in other income of \$0.3 million for the year ended December 31, 1999. Those contracts held at December 31, 2001 have maturities from January 2002 through September 2002 and accordingly, all unrealized gains on foreign currency cash flow hedges included in other comprehensive income at December 31, 2001 will be recognized in current earnings over the next twelve-month period.

## 16. Supplemental Cash Flow Information

Cash paid for interest totaled \$5.7 million, \$4.2 million and \$2.4 million for the years ended December 31, 1999, 2000 and 2001, respectively. Cash paid for income taxes totaled \$76.6 million, \$30.9 million and \$18.4 million for the years ended December 31, 1999, 2000 and 2001, respectively.

### Noncash investing and financing activities

For the year ended December 31, 1999, noncash investing and financing activities included the purchase of Big Planet for \$29.2 million of which \$14.6 million consisted of a note payable (Note 4).

## 17. Segment Information

As described in Note 1, the Company's operations throughout the world are divided into four reportable segments: North Asia, North America, Southeast Asia and Other Markets. Segment data includes intersegment revenue, intersegment profit and operating expenses and intersegment receivables and payables. The Company evaluates the performance of its segments based on operating income. Information as to the operations of the Company in each of the four segments is set forth below (U.S. dollars in thousands):

	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
<b>Revenue</b>			
North Asia	\$ 619,283	\$ 585,373	\$ 553,910
North America	320,630	386,498	428,151
Southeast Asia	265,604	271,246	323,753
Other Markets	16,960	19,088	25,486
Eliminations	<u>(328,228)</u>	<u>(382,447)</u>	<u>(445,679)</u>
Totals	<u>\$ 894,249</u>	<u>\$ 879,758</u>	<u>\$ 885,621</u>

## Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements

	<u>Year Ended December 31,</u>		
	<u>1999</u>	<u>2000</u>	<u>2001</u>
<b>Operating Income</b>			
North Asia	\$ 84,396	\$ 42,331	\$ 34,259
North America	12,457	18,708	23,492
Southeast Asia	31,922	27,001	25,044
Other Markets	(6,924)	(7,295)	(8,522)
Eliminations	<u>7,996</u>	<u>9,668</u>	<u>(2,792)</u>
Totals	<u>\$ 129,847</u>	<u>\$ 90,413</u>	<u>\$ 71,481</u>

  

	<u>December 31,</u>	
	<u>2000</u>	<u>2001</u>
<b>Total Assets</b>		
North Asia	\$ 83,941	\$ 74,168
North America	471,221	465,759
Southeast Asia	76,279	86,837
Other Markets	13,039	17,260
Eliminations	<u>(53,677)</u>	<u>(61,672)</u>
Totals	<u>\$ 590,803</u>	<u>\$ 582,352</u>

Information as to the Company's operations in different geographical areas is set forth below (U.S. dollars in thousands):

### Revenue

Revenue from the Company's operations in Japan totaled \$602,411, \$554,210 and \$508,141 for the years ended December 31, 1999, 2000 and 2001, respectively. Revenue from the Company's operations in Taiwan totaled \$103,581, \$83,436 and \$70,225 for the years ended December 31, 1999, 2000 and 2001, respectively. Revenue from the Company's operations in the United States (which includes intercompany revenue) totaled \$316,128, \$380,785 and \$422,239 for the years ended December 31, 1999, 2000 and 2001, respectively.

### Long-lived assets

Long-lived assets in Japan were \$23,782 and \$18,863 as of December 31, 2000 and 2001, respectively. Long-lived assets in Taiwan were \$3,235 and \$2,358 as of December 31, 2000 and 2001, respectively. Long-lived assets in the United States were \$313,415 and \$293,854 as of December 31, 2000 and 2001, respectively.

## 18. Commitments and Contingencies

The Company is subject to governmental regulations pertaining to product formulation, labeling and packaging, product claims and advertising and to the Company's direct selling system. The Company is also subject to the jurisdiction of numerous foreign tax authorities. Any assertions or determination that either the Company or the Company's distributors is not in compliance with existing statutes, laws, rules or regulations could potentially have a material adverse effect on the Company's operations. In addition, in any country of jurisdiction, the adoption of new statutes, laws, rules or regulations or changes in the interpretation of existing statutes, laws, rules or regulations could have a material adverse effect on the Company and its operations. Although management believes that the Company is in compliance, in all material respects, with the statutes, laws, rules and regulations of every jurisdiction in which it operates, no assurance can be given that the Company's compliance with applicable statutes, laws, rules and

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## Nu Skin Enterprises, Inc. Notes to Consolidated Financial Statements

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regulations will not be challenged by foreign authorities or that such challenges will not have a material adverse effect on the Company's financial position or results of operations or cash flows. The Company and its subsidiaries are defendants in litigation and proceedings involving various matters. In the opinion of the Company's management, based upon advice of its counsel handling such litigation and proceedings, adverse outcomes, if any, will not result in a material effect on the Company's consolidated financial condition or results of operations.

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## PricewaterhouseCoopers LLP

PricewaterhouseCoopers LLP  
Beneficial Life Tower  
36 South State Street Suite 1700  
Salt Lake City UT 84111  
Telephone (801) 531 9666  
Facsimile (801) 363 7371

### REPORT OF INDEPENDENT ACCOUNTANTS

To the Board of Directors and Stockholders of Nu Skin Enterprises, Inc.:

In our opinion, the accompanying consolidated balance sheets and the related consolidated statements of income, stockholders' equity and cash flows present fairly, in all material respects, the financial position of Nu Skin Enterprises, Inc. and its subsidiaries at December 31, 2000 and 2001, and the results of their operations and their cash flows for each of the three years in the period ended December 31, 2001 in conformity with accounting principles generally accepted in the United States of America. These financial statements are the responsibility of the Company's management; our responsibility is to express an opinion on these financial statements based on our audits. We conducted our audits of these statements in accordance with auditing standards generally accepted in the United States of America, which require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements, assessing the accounting principles used and significant estimates made by management, and evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

/s/PricewaterhouseCoopers LLP  
PricewaterhouseCoopers LLP



**ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE**

None.

**PART III**

The information required by Items 10,11,12 and 13 of Part III is hereby incorporated by reference to the Company's Definitive Proxy Statement filed or to be filed with the Securities and Exchange Commission not later than April 30, 2002.

**PART IV**

**ITEM 14. EXHIBITS FINANCIAL STATEMENTS SCHEDULES AND REPORTS ON FORM 8-K**

(a) Documents filed as part of this Form 10-K:

1. Financial Statements. See Index to Consolidated Financial Statements under Item 8 of Part II.

2. Exhibits: The following Exhibits are filed with this Form 10-K:

<u>Exhibit Number</u>	<u>Exhibit Description</u>
2.1	Stock Acquisition Agreement between Nu Skin Asia Pacific, Inc. and each of the persons on the signature pages thereof, dated February 27, 1998, incorporated by reference to Exhibit 2.1 of the Company's Annual Report on Form 10-K for the year ended December 31, 1997.
2.2	Agreement and Plan of Merger dated as of May 3, 1999 by and among Nu Skin Enterprises, Inc., NSC Sub, Inc., NSG Sub, Inc., NSM Sub, Inc., NFB Sub, Inc., Nu Skin Canada, Inc., Nu Skin Guatemala, Inc., Nu Skin Guatemala, S.A., Nu Skin Mexico, Inc., Nu Skin Mexico, S.A. de C.V., Nu Family Benefits Insurance Brokerage, Inc., and certain stockholders, incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed on June 25, 1999.
2.3	Agreement and Plan of Merger and Reorganization dated May 3, 1999 between and among the Company, Big Planet Holdings, Inc., Big Planet, Inc., Nu Skin USA, Inc., Richard W. King, Kevin V. Doman and Nathan W. Ricks, incorporated by reference to Exhibit 2.1 to the Company's Current Report on Form 8-K filed on July 28, 1999.
2.4	First Amendment to Agreement and Plan of Merger and Reorganization dated July 2, 1999 between and among the Company, Big Planet Holdings, Inc., Big Planet, Inc.,

	Maple Hills Investment, Inc. (formerly Nu Skin USA, Inc.), Richard W. King, Kevin V. Doman and Nathan W. Ricks, incorporated by reference to Exhibit 2.2 to the Company's Current Report on Form 8-K filed on July 28, 1999.
3.1	Amended and Restated Certificate of Incorporation of the Company incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1 (File No. 333-12073) (the "Form S-1").
3.2	Certificate of Amendment to the Amended and Restated Certificate of Incorporation, incorporated by reference to Exhibit 3.1 to the Company's Quarterly Report on Form 10-Q for the quarterly period ended June 30, 1998.
3.3	Certificate of Designation, Preferences and Relative Participating, Optional, and Other Special Rights of Preferred Stock and Qualification, Limitations and Restrictions Thereof, incorporated by reference to Exhibit 3.3 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
3.4	Amended and Restated Bylaws of the Company incorporated by reference to Exhibit 3.2 to the Company's Form S-1.
4.1	Specimen Form of Stock Certificate for Class A Common Stock incorporated by reference to Exhibit 4.1 to the Company's Form S-1.
4.2	Specimen Form of Stock Certificate for Class B Common Stock incorporated by reference to Exhibit 4.2 to the Company's Form S-1.
10.1	Form of Indemnification Agreement to be entered into by and among the Company and certain of its officers and

directors incorporated by reference to Exhibit 10.1 to the Company's Form S-1.

- 10.2 Employment Contract, dated December 12, 1991, by and between Nu Skin Taiwan and John Chou incorporated by reference to Exhibit 10.3 to the Company's Form S-1.
- 10.3 Employment Agreement, dated May 1, 1993, by and between Nu Skin Japan and Takashi Bamba incorporated by reference to Exhibit 10.4 to the Company's Form S-1.
- 10.4 Form of Stock Option Agreement (Directors).
- 10.5 Option Agreement by and between the Company and M. Truman Hunt incorporated by reference to Exhibit 10.19 to the Company's Form S-1.
- 10.6 Form of Amended and Restated Stockholders Agreement dated as of November 28, 1997, incorporated by reference to Exhibit 10.25 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997.
- 10.7 Amendment No. 1 to Amended and Restated Stockholders Agreement dated as of November 28, 1997, incorporated by reference to Exhibit 10.55 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.

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- 10.8 Amendment No. 2 to Amended and Restated Stockholders Agreement, incorporated by reference to Exhibit 10.31 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
- 10.9 Demand Promissory Note in the original principal amount of \$5,000,000 dated December 10, 1997, from Nedra D. Roney payable to Nu Skin Asia Pacific, Inc. incorporated by reference to Exhibit 10.26 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997.
- 10.10 Stock Pledge Agreement between Nu Skin Asia Pacific, Inc. and Nedra Roney dated as of December 10, 1997, incorporated by reference to Exhibit 10.27 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997
- 10.11 Tax Sharing and Indemnification Agreement dated December 31, 1997, by and among NSI, Nu Skin USA, and the shareholders of NSI and Nu Skin USA and their successors and assigns, incorporated by reference to Exhibit 10.37 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.12 Assumption of Liabilities and Indemnification Agreement dated December 31, 1997, by and between NSI and Nu Skin USA, incorporated by reference to Exhibit 10.38 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.13 Employee Benefits Allocation Agreement by and between NSI and Nu Skin USA, incorporated by reference to Exhibit 10.39 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.14 Warehouse Lease Agreement dated March 1996, between NSI and Aspen Investments, Ltd., incorporated by reference to Exhibit 10.42 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.15 Lease Agreement dated January 27, 1995, by and between NSI and Scrub Oak, Ltd., incorporated by reference to Exhibit 10.43 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.16 Warehouse Lease Agreement (Annex) dated October 1, 1993, by and between NSI and Aspen Investments, Ltd., incorporated by reference to Exhibit 10.45 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.17 Nu Skin Enterprises, Inc.'s Executive Bonus Plan.
- 10.18 Amendment in Total and Complete Restatement of Deferred Compensation Plan, incorporated by reference to Exhibit 10.48 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.19 Form of Deferred Compensation Plan (New Form), incorporated by reference to Exhibit 10.49 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.20 Amendment in Total and Complete Restatement of NSI Compensation Trust, incorporated by reference to Exhibit 10.50 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.

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- 10.21 Asset Purchase Agreement by and among the Company, Nu Skin United States, Inc., and Nu Skin USA, dated as of March 8, 1999, incorporated by reference to Exhibit 10.52 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.22 Termination Agreement by and between NSI and Nu Skin USA, dated as of March 8, 1999, incorporated by reference to Exhibit 10.53 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.23 Indemnification Limitation Agreement by and among the Company, Nu Skin United States, Inc., NSI, Nu Skin USA, and the other parties who executed such agreement, incorporated by reference to Exhibit 10.54 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.24 First Amendment to Indemnification Limitation Agreement dated as of May 3, 1999 between Nu Skin Enterprises, Inc., Nu Skin USA, Inc., and the Stockholders of the acquired entities identified therein, incorporated by reference to

Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 28, 1999.

- 10.25 Promissory Note dated July 5, 2001 executed by Joseph Chang in favor of the Company, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- 10.26 Trust Deed dated July 5, 2001 executed by Joseph Chang in favor of the Company, incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- 10.27 Second Amended and Restated Nu Skin Enterprises, Inc. 1996 Stock Incentive Plan (corrected version), incorporated by reference to Exhibit 10.39 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
- 10.28 Mutual Release of Claims and Modification Agreement dated as of October 16, 1999 by and among Nu Skin Enterprises and the Stockholder Representatives on behalf of the former stockholders of Generation Health Holdings, Inc., incorporated by reference to Exhibit 10.1 to the Company's Annual Report on Form 10-Q for the quarter ended September 30, 1999.
- 10.29 Service Agreement between Grant F. Pace and the Company, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001.
- 10.30 Base Form of Stock Option Agreement, incorporated by reference to Exhibit 10.42 of the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
- 10.31 Promissory Note dated October 25, 2001 executed by Lori Bush in favor of the Company.
- 10.32 Trust Deed dated October 25, 2001 executed by Lori Bush in favor of the Company.

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- 10.33 Assignment of Leasehold Improvements by and between Big Planet, Inc. and Maple Hills Investment dated as of July 13, 1999, incorporated by reference to Exhibit 10.44 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
- 10.34 Promissory Note dated July 13, 1999 executed by Nu Skin Enterprises, Inc. in favor of Maple Hills Investment, Inc.
- 10.35 Employment Agreement by and between Pharmanex and Joseph Chang, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- 10.36 Amendment to Employment Agreement by and between Pharmanex and Joseph Chang, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001.
- 10.37 Promissory Note by and between the Company and Grant Pace, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- 10.38 Note Purchase Agreement dated October 12, 2000, by and between the Company and The Prudential Insurance Company of America, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
- 10.39 Pledge Agreement dated October 12, 2000, by and between the Company and State Street Bank and Trust Company of California, N.A., acting in its capacity as collateral agent, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
- 10.40 Collateral Agency Agreement dated October 12, 2000, by and between the Company, State Street Bank and Trust Company of California, N.A., as Collateral Agent, and the lenders and noteholders party thereto, incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
- 10.41 Amendment to Collateral Agency and Intercreditor Agreement among State Street Bank and Trust Company of California, N.A., as Collateral Agent, The Prudential Insurance Company of America, as Senior Noteholder and ABN AMRO Bank N.V., as Senior Lender, incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001.
- 10.42 Credit Agreement dated as of May 10, 2001 among the Company, various financial institutions, and Bank of America, N.A., as Administrative Agent, incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001.
- 10.43 First Amendment dated December 14, 2001 to the Credit Agreement dated May 10, 2001 among the Company, various financial institutions, and Bank of America, N.A. as Administrative Agent.

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- 10.44 Sale and Purchase Agreement between the Company and Dato Mohd Nadzmi Bin Mohd Sulleh dated the 17th day of August, 2001, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.
- 10.45 Sale and Purchase Agreement between the Company and Kiow Kim Yoon Frankie Kiow dated the 17th day of August 2001, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.

10.46	Shareholders Agreement among the Company, Dato Mohd Nadzmi Bin Mohd Sulleh and Kiow Kim Yoon Frankie Kiow dated effective as of September 25, 2001.
10.47	Settlement Agreement between plaintiff Natalie Capone and defendants Nu Skin International, Inc. et al., incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001.
10.48	Summary Description of Nu Skin Japan Director Retirement Allowance Plan.
10.49	Region/Country Executive - Incentive Plan.
21.1	Subsidiaries of the Company.
23.1	Consent of PricewaterhouseCoopers LLP.
(b)	The Company filed one current report on Form 8-K on December 19, 2001 relating to the extension of the Distributor Stock Option Program.

**SIGNATURES**

Pursuant to the requirements of Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized, on March 29, 2002.

**NU SKIN ENTERPRISES, INC.**

By: /s/ Steven J. Lund  
Steven J. Lund, President and Chief Executive Officer

Pursuant to the requirements of the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant and in the capacities indicated on March 29, 2002.

<u>Signature</u>	<u>Capacity in Which Signed</u>
<u>/s/Blake M. Roney</u> Blake M. Roney	Chairman of the Board
<u>/s/Steven J. Lund</u> Steven J. Lund	President, Chief Executive Officer, and Director (Principal Executive Officer)
<u>/s/Corey B. Lindley</u> Corey B. Lindley	Executive Vice President and Chief Financial Officer (Principal Financial Officer and Accounting Officer)
<u>/s/Sandra N. Tillotson</u> Sandra N. Tillotson	Senior Vice President, Director
<u>/s/Brooke B. Roney</u> Brooke B. Roney	Senior Vice President, Director
<u>/s/Max L. Pinegar</u> Max L. Pinegar	Senior Vice President, Director
<u>/s/Daniel W. Campbell</u> Daniel W. Campbell	Director
<u>/s/E.J. "Jake" Garn</u> E.J. "Jake" Garn	Director
<u>/s/Paula F. Hawkins</u> Paula F. Hawkins	Director

/s/Andrew D. Lipman  
Andrew D. Lipman

Director

/s/Takashi Bamba  
Takashi Bamba

Director

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## EXHIBIT INDEX

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3.1	Amended and Restated Certificate of Incorporation of the Company incorporated by reference to Exhibit 3.1 to the Company's Registration Statement on Form S-1 (File No. 333-12073) (the "Form S-1").
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10.6	Form of Amended and Restated Stockholders Agreement dated as of November 28, 1997, incorporated by reference to Exhibit 10.25 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997.
10.7	Amendment No. 1 to Amended and Restated Stockholders Agreement dated as of November 28, 1997, incorporated by reference to Exhibit 10.55 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
10.8	Amendment No. 2 to Amended and Restated Stockholders Agreement, incorporated by reference to Exhibit 10.31 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
10.9	Demand Promissory Note in the original principal amount of \$5,000,000 dated December 10, 1997, from Nedra D. Roney payable to Nu Skin Asia Pacific, Inc. incorporated by reference to Exhibit 10.26 to the Company's Annual Report on Form 10-K for the year ended December 31, 1997.

- 10.10 Stock Pledge Agreement between Nu Skin Asia Pacific, Inc. and Nedra Roney dated as of December 10, 1997, incorporated by reference to Exhibit 10.27 to the Company's Annual Report of Form 10-K for the year ended December 31, 1997.
- 10.11 Tax Sharing and Indemnification Agreement dated December 31, 1997, by and among NSI, Nu Skin USA, and the shareholders of NSI and Nu Skin USA and their successors and assigns, incorporated by reference to Exhibit 10.37 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
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- 10.15 Lease Agreement dated January 27, 1995, by and between NSI and Scrub Oak, Ltd., incorporated by reference to Exhibit 10.43 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.16 Warehouse Lease Agreement (Annex) dated October 1, 1993, by and between NSI and Aspen Investments, Ltd., incorporated by reference to Exhibit 10.45 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
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- 10.20 Amendment in Total and Complete Restatement of NSI Compensation Trust, incorporated by reference to Exhibit 10.50 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
- 10.21 Asset Purchase Agreement by and among the Company, Nu Skin United States, Inc., and Nu Skin USA, dated as of March 8, 1999, incorporated by reference to Exhibit 10.52 to the Company's Annual Report on Form 10-K for the year ended December 31, 1998.
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- 10.24 First Amendment to Indemnification Limitation Agreement dated as of May 3, 1999 between Nu Skin Enterprises, Inc., Nu Skin USA, Inc., and the Stockholders of the acquired entities identified therein, incorporated by reference to Exhibit 10.1 to the Company's Current Report on Form 8-K filed on July 28, 1999.
- 10.25 Promissory noted dated July 5, 2001 executed by Joseph Chang in favor of the Company, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- 10.26 Trust Deed dated July 5, 2001 executed by Joseph Chang in favor of the Company, incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
- 10.27 Second Amended and Restated Nu Skin Enterprises, Inc. 1996 Stock Incentive Plan (corrected version), incorporated by reference to Exhibit 10.39 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
- 10.28 Mutual Release of Claims and Modification Agreement dated as of October 16, 1999 by and among Nu Skin Enterprises and the Stockholder Representatives on behalf of the former stockholders of Generation Health Holdings, Inc., incorporated by reference to Exhibit 10.1 to the Company's Annual Report on Form 10-Q for the quarter ended September 30, 1999.
- 10.29 Service Agreement between Grant F. Pace and the Company, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001.
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- 10.32 Trust Deed dated October 25, 2001 executed by Lori Bush in favor of the Company.
- 10.33 Assignment of Leasehold Improvements by and between Big Planet, Inc. and Maple Hills Investment dated as of July 13, 1999, incorporated by reference to Exhibit 10.44 to the Company's Annual Report on Form 10-K for the year ended December 31, 1999.
- 10.34 Promissory Noted dated July 13, 1999 executed by Nu Skin Enterprises, Inc. in favor of Maple Hills Investment, Inc.

10.35	Employment Agreement by and between Pharmanex and Joseph Chang, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
10.36	Amendment to Employment Agreement by and between Pharmanex and Joseph Chang, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001.
10.37	Promissory Note by and between the Company and Grant Pace, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2000.
10.38	Note Purchase Agreement dated October 12, 2000, by and between the Company and The Prudential Insurance Company of America, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
10.39	Pledge Agreement dated October 12, 2000, by and between the Company and State Street Bank and Trust Company of California, N.A., acting in its capacity as collateral agent, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
10.40	Collateral Agency Agreement dated October 12, 2000, by and between the Company, State Street Bank and Trust Company of California, N.A., as Collateral Agent, and the lenders and noteholders party thereto, incorporated by reference to Exhibit 10.3 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2000.
10.41	Amendment to Collateral Agency and Intercreditor Agreement among State Street Bank and Trust Company of California, N.A., as Collateral Agent, The Prudential Insurance Company of America, as Senior Noteholder and ABN AMRO Bank N.V., as Senior Lender, incorporated by reference to Exhibit 10.5 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001.
10.42	Credit Agreement dated as of May 10, 2001 among the Company, various financial institutions, and Bank of America, N.A., as Administrative Agent, incorporated by reference to Exhibit 10.4 to the Company's Quarterly Report on Form 10-Q for the quarter ended June 30, 2001.
10.43	First Amendment dated December 14, 2001 to the Credit Agreement dated May 10, 2001 among the Company, various financial institutions, and Bank of America, N.A. as Administrative Agent.
10.44	Sale and Purchase Agreement between the Company and Dato Mohd Nadzmi Bin Mohd Sulleh dated the 17th day of August, 2001, incorporated by reference to Exhibit 10.1 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.
10.45	Sale and Purchase Agreement between the Company and Kiow Kim Yoon Frankie Kiow dated the 17th day of August 2001, incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended September 30, 2001.
10.46	Shareholders Agreement among the Company, Dato Mohd Nadzmi Bin Mohd Sulleh and Kiow Kim Yoon Frankie Kiow dated effective as of September 25, 2001.
10.47	Settlement Agreement between plaintiff Natalie Capone and defendants Nu Skin International, Inc. et al., incorporated by reference to Exhibit 10.2 to the Company's Quarterly Report on Form 10-Q for the quarter ended March 31, 2001.
10.48	Summary Description of Nu Skin Japan Director Retirement Allowance Plan.
10.49	Region/Country Executive - Incentive Plan.
21.1	Subsidiaries of the Company.
23.1	Consent of PricewaterhouseCoopers LLP.

**NU SKIN ENTERPRISES, INC.  
SECOND AMENDED AND RESTATED  
1996 STOCK INCENTIVE PLAN  
NONQUALIFIED STOCK OPTION AGREEMENT  
(Director Option Agreement)**

This Nonqualified Stock Option Agreement (the "Agreement") is made effective as of May 4, 1999 (the "Effective Date"), to \_\_\_\_\_ (the "Optionee") under the Nu Skin Enterprises, Inc. Second Amended and Restated 1996 Stock Incentive Plan (the "Plan") by Nu Skin Enterprises, Inc., a Delaware corporation (the "Company"). Capitalized terms used herein without definition and defined in the Plan have the same meanings as provided in the Plan.

1. **GRANT.** Pursuant to Section 7 of the Plan, the Company has granted to Optionee \_\_\_\_\_ ( \_\_\_\_\_ ) options (the "Options") as of the Effective Date as an incentive to remain as a director of the Company and to work to increase the value of the Company for its stockholders. Each Option shall entitle the Optionee to purchase, on the terms and conditions of this Agreement and the Plan, one fully paid and non-assessable share of Class A Common Stock (the "Class A Common Stock") of the Company at the option price of \$ \_\_\_\_\_ per share. The Options are subject to all of the terms and conditions of the Plan and this Agreement.

2. **NATURE OF OPTION.** The Options are intended to constitute Non-qualified Stock Options and the provisions of the Options shall be interpreted consistent therewith.

3. **TERMS AND EXERCISE PERIOD.**

(a) Options awarded under this Agreement may not be exercised at any time until such Options are vested as provided in Section 4 of this Agreement.

(b) Except as otherwise provided in Section 5 of this Agreement the Options granted hereunder shall terminate on the earlier of (i) the tenth anniversary of the date of this Agreement, or (ii) the date such Options are fully exercised.

4. **VESTING.** All of the Options granted hereunder shall vest on May 4, 2000.

5. **TERMINATION OF SERVICE.**

(a) In the event the Optionee's service as a director is terminated for any reason, all Options that are not vested at the time of termination of service as a Director shall terminate and be forfeited immediately upon termination of service as a director.

(b) In the event the Optionee's service as a director is terminated for any reason, all Options granted hereunder that are vested but unexercised at the time of termination of service as director shall terminate upon the earliest to occur of the following: (i) the full exercise of the Options, (ii) the expiration of the Options by their terms, or (iii) one year following the date of termination of the Optionee's service as a director. Until such Options have been terminated pursuant to the preceding sentence, the vested Options at the time of termination of service shall be exercisable by the Optionee, the estate of the Optionee, or the person or persons to whom the Options may have been transferred by will or by the laws of descent and distribution for the period set forth in this Section 5(b), as the case may be.

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(c) In the event that the Optionee (a) commits an act of fraud or intentional misrepresentation related to his or her services as a director, (b) discloses or uses confidential information in a manner detrimental to the Company, (c) competes with the Company, or (d) takes any other actions that are harmful to the interests of the Company, then the Committee shall have the right to terminate this Agreement at their discretion, in which case all Options granted hereunder shall terminate and be forfeited.

6. **STOCK CERTIFICATES.** Within a reasonable time after the exercise of an Option, and the satisfaction of the Optionee's obligations hereunder, the Company shall cause to be delivered to the person entitled thereto a certificate for the shares purchased pursuant to the exercise of such Option.

7. **TRANSFERABILITY OF OPTIONS.** This Agreement and the Options granted hereunder shall not be transferable otherwise than by will or by the laws of descent and distribution, and shall be exercised, during the lifetime of the Optionee, only by the Optionee.

8. **EXERCISE OF OPTIONS.** Options shall become exercisable at such time, as may be provided herein and shall be exercisable by written notice of such exercise, in the form prescribed by the Committee, to the Secretary or President of the Company, at its principal office, or such other person as may be designated by the Committee. The notice shall specify the number of Options that are being exercised. The Option Price shall be payable on the exercise of the Options and shall be paid in cash, in shares of Class A Common Stock, including shares of Class A Common Stock acquired pursuant to the Plan, part in cash and part in shares, or such other manner as may be approved by the Committee consistent with the terms of the Plan as it may be amended from time to time. Shares of Class A Common Stock transferred in payment of the Option Price shall be valued as of the date of transfer based on the Fair Market Value of the Company's Class A Common Stock which for purposes hereof, shall be considered to be the average closing price of the Company's Class A Common Stock as reported on the New York Stock Exchange for the ten (10) trading days just prior to the date of exercise. Only shares of the Company's Class A Common Stock which have been held for at least six (6) months may be used to exercise the Option.

9. **NO RIGHTS AS STOCKHOLDER.** This Agreement shall not entitle the Optionee to any rights as a stockholder of the Company until the date of the issuance of a stock certificate to the Optionee for shares pursuant to the exercise of Options covered hereby.

10. **GOVERNING PLAN DOCUMENT.** This Agreement incorporates by reference all of the terms and conditions of the Plan as presently existing and as hereafter amended. The Optionee expressly acknowledges and agrees that the terms and provisions of this Agreement are subject in all respects to the provisions of the Plan. The Optionee also hereby expressly acknowledges, agrees and represents as follows:

(a) Acknowledges receipt of a copy of the Plan and represents that the Optionee is familiar with the provisions of the Plan, and that the Optionee enters into this Agreement subject to all of the provisions of the Plan.



(b) Recognizes that the Committee has been granted complete authority to administer the Plan in its sole discretion, and agrees to accept all decisions related to the Plan and all interpretations of the Plan made by the Committee as final and conclusive upon the Optionee and upon all persons at any time claiming any interest through the Optionee in any Option granted hereunder.

(c) Acknowledges and understands that the establishment of the Plan and the existence of this Agreement are not sufficient, in and of themselves, to exempt the Optionee from the

requirements of Section 16(b) of the Exchange Act and any rules or regulations promulgated thereunder, and that the Optionee shall not be exempt from such requirements pursuant to Rule 16b-3 unless and until the Optionee shall comply with all applicable requirements of Rule 16b-3, including without limitation, the possible requirement that the Optionee must not sell or otherwise dispose of any share of Class A Common Stock acquired upon exercise of an Option unless and until a period of at least six months shall have elapsed between the date upon which such Option was granted to the Optionee and the date upon which the Optionee desires to sell or otherwise dispose of any share of Class A Common Stock acquired upon exercise of such Option.

(d) Acknowledges and understands that the Optionee's use of Class A Common Stock owned by the Optionee to pay the Option Price of an Option could have substantial adverse tax consequences to the Optionee, and that the Company recommends that the Optionee consult with a knowledgeable tax advisor before paying the Option Price of any Option with Class A Common Stock.

11. **REPRESENTATIONS AND WARRANTIES.** As a condition to the exercise of any Option granted pursuant to the Plan, the Company may require the person exercising such Option to make any representations and warranties to the Company that legal counsel to the Company may determine to be required or advisable under any applicable law or regulation, including without limitation, representations and warranties that the shares of Class A Common Stock being acquired through the exercise of such Option are being acquired only for investment and without any present intention or view to sell or distribute any such shares.

12. **OPTIONEE RIGHTS.** No provision of this Agreement or the Plan shall be deemed to give to Optionee any right to be retained in the service of the Company, or to interfere in any way with the right of the Company at any time to discontinue using the services of Optionee as an independent contractor or other capacity or to remove Optionee as a director.

13. **WITHHOLDING OF TAXES.** To the extent required by applicable law, the Optionee authorizes the Company to withhold, in accordance with applicable laws and regulations, from any compensation or other payment payable to the Optionee, all federal, state and other taxes attributable to taxable income realized by the Optionee as a result of the grant or exercise of any Options. As a condition to the exercise of any Option, Optionee shall remit to the Company the amount of cash necessary to pay any withholding taxes, if any, associated therewith or make other arrangements acceptable to the Company, in the Company's sole discretion, for the payment of any withholding taxes.

14. **EFFECTIVE DATE OF GRANT.** Each Option granted pursuant to this Agreement shall be effective as of the date first written above.

15. **COMPLIANCE WITH LAW AND REGULATIONS.** The obligations of the Company hereunder are subject to all applicable federal and state laws and to the rules, regulations and other requirements of the Securities and Exchange Commission, any stock exchange upon which the Class A Common Stock is then listed and any other government or regulatory agency.

16. **SECTION REFERENCES.** The references to Plan sections shall be to the sections as in existence on the date hereof unless an amendment to the Plan specifically provides otherwise.

17. **QUESTIONS.** All questions regarding this Agreement shall be addressed to M. Truman Hunt.

IN WITNESS WHEREOF, these parties hereby execute this Agreement to be effective as of the Effective Date.

NU SKIN ENTERPRISES, INC., a Delaware corporation

By: \_\_\_\_\_  
Its: Steven J. Lund, President and CEO

\_\_\_\_\_  
Optionee

\_\_\_\_\_  
Optionee's Address



# NU SKIN ENTERPRISES

## Corporate Executive - Incentive Bonus Plan (US Based) July 2001 (updated August 15, 2001)

### Purpose

***Nu Skin Enterprises, Inc. ("Nu Skin") believes that sound compensation programs are essential to the retention, attraction and motivation of personnel . The purpose of the Plan is to focus executives on excellent, sustained performance that leads to long-term growth, profitability and stability.***

### Objectives

#### ***The objectives of the Incentive Plan include:***

- Focusing executives on the achievement of Nu Skin Enterprise business and strategic objectives;
- Enhancing operational efficiency and teamwork within each division/region and across divisions and regions;
- Increasing revenue and operating income on a constant currency basis; and
- Attracting, retaining and motivating executives by emphasizing "pay for performance" compensation programs that offer competitive total compensation (base salary + incentives) opportunities based on achievement of Company financial and strategic objectives.

### Effective Plan Date, Duration and Performance Cycles

#### • **Effective Plan Date**

The effective Plan date is July 1, 2001. The Plan is in effect until further notice and can be cancelled or changed by notification to plan participants prior to the start of any fiscal quarter.

#### • **Performance Cycles**

Executives are eligible to earn the incentive award each fiscal quarter calculated on the individual's base salary as of the start of the quarter, and based upon the Company's performance during the quarter.

#### • **Constant Currency Basis**

The Operating Profit and Revenue targets will be set based on budgets and projections converted on a constant currency basis and the results for each fiscal quarter will be converted to constant currency amounts for use in computing performance bonuses.

Constant Currency means using the same currency exchange rate used to translate the financial results for the corresponding period of the prior year, thus eliminating the impact of currency fluctuations. These amounts will be computed by the NSE Finance Department.

### Incentives and Participants

***Executive Incentive Plan Participants have target award opportunities designed to reward superior Corporate and Division/Region performance and maintain externally competitive total cash compensation commensurate with the Company's performance:***

Participants' incentive awards will be based upon the areas of the Company in which they contribute, and

Participants are assigned a target incentive award opportunity expressed as a percentage of their base salary. The following chart summarizes the percentages used to calculate the bonus for each executive group.

#### INCENTIVES

<u>Position</u>	<u>Total Target Incentive</u>	<u>NSE Profit Portion</u>	<u>NSE Revenue Portion</u>	<u>Division/ Region Revenue</u>
Chairman & CEO	60%	60%	40%	0%
Senior Vice Presidents	60%	60%	40%	0%
EVPs	60%	60%	40%	0%
Division Presidents, Regional VPs	50%	60%	10%	30%
Division COO, U.S. General Manager	40%	60%	10%	30%
Corporate VPs > 5 years VP service	40%	60%	40%	0%
Corporate VPs < 5 years VP service	30%	60%	40%	0%
Division, Country Vice Presidents	30%	60%	10%	30%

#### PARTICIPANTS

## Position

Chairman & CEO  
Senior Vice Presidents  
Executive Vice Presidents  
Division Presidents, Regional VPs  
U.S. General Manager, Division COO  
Vice Presidents > 5 years VP service  
  
Vice Presidents < 5 years VP service  
Division, Country Vice Presidents

## Participants

Blake Roney, Steve Lund  
Brooke Roney, Sandie Tillotson, Max Pinegar  
Truman Hunt, Corey Lindley  
Lori Bush, Joe Chang, Richard King, Robert Conlee, Mark Wolfert, Mike Smith  
Scott Schwerdt, Jack Peterson  
Mark Adams, Claire Averett, Max Esplin, Gary Garrett, Rich Hartvigsen, Sid Henderson,  
Larry Macfarlane, Brad Morris, R. Brent Ririe, Mike Smith  
Joe Ford, John Fralick, James Frary, Keith Howe, Ritch Wood, Rob Young  
Luiz Cequeira, Char Knox, Brett Nelson, Bart Mangum

### **Critical Success Factors ("CSF's")**

- The Company will use operating profit and revenue as Critical Success Factors ("CSF's").
- The incentive bonus will be weighted 60% to operating profit and 40% to revenue.
- As shown in the table above, Division or Region/Country executives will split the revenue based bonus between Corporate (10%) revenue and Division or Region/Country (30%) revenue. The Division or Region/Country executive must achieve at least 80% of their respective Division or Region/Country target revenue in order to be eligible for any payment related to the Corporate portion of the incentive. In addition, to receive the Division or Region/Country revenue portion of the bonus the Division/Region/Country threshold level of 90% must be met.

### **Performance Thresholds**

- **Threshold** levels represent the minimum acceptable actual performance levels, relative to the targets, required for incentive pay-out.
  - The threshold level for operating profit is 95%
  - The threshold level for revenue is 90%

Note: If either CSF is below the threshold level at the end of the Plan performance cycle, no incentive will be paid.

- At the **Threshold** level of performance, the incentive pay-out will begin at 50% and increase linearly to the **Targeted** or 100% level of performance.
- **Target** levels are set to essentially be in line with achievement of 100% of budgeted revenue and operating profit.
- **Outstanding** levels represent performance levels that exceed the target objectives. The bonus continues to increase linearly when the targets are exceeded.

### **Target Guidelines**

- Target incentive award levels are set by the executive committee based on the individual's level of job responsibility, considering that job's potential to impact NSE's financial performance, as well as competitive total compensation practices (base salary plus incentives) for comparable jobs within organizations similar in size and scope.
- The actual incentive payout may be smaller or larger, depending on overall NSE, and Division or Region/Country performance results.

### **Incentive Award Pay-out Guidelines**

- Eligible participants will be chosen by the Chairman and the CEO/President and approved by the Executive Compensation Committee, and must be on the payroll at the time of the payment;
- The number of days from the date the Participant was selected for participation to the fiscal quarter-end will be used to prorate the incentive award;
- Participants will receive their awards, when earned, by separate check;
- Award payments shall be subject to any State and/or Federal tax withholdings; and
- Payments will be made approximately sixty days after each quarter-end.

PROMISSORY NOTE

\$815,000

October 25, 2001

FOR VALUE RECEIVED, the undersigned, LORI H. BUSH, agrees to pay to the order of NU SKIN ENTERPRISES, INC., a Delaware corporation, at 75 West Center Street, Provo, Utah 84601, or at such other place as the holder (the "Holder") of this Note may from time to time designate in writing, without setoff, in lawful money of the United States of America, the principal sum of EIGHT HUNDRED FIFTEEN THOUSAND DOLLARS (\$815,000) together with interest on such principal sum and any other amounts due under this Note.

1. Interest. Commencing on the date of this Note and continuing until all principal and interest due under this Note are paid in full, the outstanding principal balance of this Note shall bear interest at the rate of 4.5% percent per annum. Interest shall accrue daily and be calculated on the basis of a three hundred sixty (360) day year and the actual number of days elapsed in any partial calendar month.

2. Payment. Accrued interest shall be due and payable in quarterly installments due on the 1st day of December, March, June and September each year, commencing on December 1, 2001. Except as otherwise provided in this Note or the Deed of Trust (as defined in paragraph 5) in the case of a default in payment or other breach, the entire principal balance of this Note, together with any accrued and unpaid interest thereon and any other fees, costs or expenses payable hereunder, shall be due and payable on the earlier to occur of the following: (i) May 1, 2002, (ii) the 90th day following the closing of the sale of the undersigned's residence located in Golden, Colorado, (iii) the 180th day following the date of the undersigned's termination of employment with the Holder or any affiliate thereof, unless the Holder's employment is terminated for "Cause," in which event the entire principal balance will be due and payable 30 days following the date of termination of employment. For purposes of this Note, "Cause" shall mean the following: (a) conduct related to the undersigned's employment for which either criminal or civil penalties may be sought, (b) the commission of an act of fraud or intentional misrepresentation, (c) embezzlement or misappropriation or conversion of assets or business opportunities, (d) any breach of the non-competition or non-solicitation provisions or any other policy of the Payee applicable to the undersigned, (e) disclosing or misusing any confidential or proprietary information. Unless the Holder shall otherwise elect, each payment made under this Note shall be applied first to costs and expenses incurred in connection with the enforcement of this Note and interest due under this Note, and any balance shall be applied to reduce the principal balance of this Note.

3. Late or Partial Payments. Any payment required under this Note or under any other agreement entered into in connection with this Note that is not made when due, shall bear interest payable on demand, both before and after judgment, at the rate of fifteen percent (15.0%) per annum (the "Default Rate"). The acceptance by the Holder of any payment that is less than the entire amount then due under this Note shall be on account only and shall not constitute a waiver of the obligation of the undersigned to pay such entire amount. The failure of the undersigned to pay the entire amount then due under this Note shall be and continue to be an event of default under this Note, notwithstanding the acceptance by the Holder of less than such entire amount on account, and the Holder shall thereafter, until such entire amount is paid (and notwithstanding acceptance by the Holder thereafter of further sums on account or otherwise), be entitled to exercise all rights and remedies provided for in this Note and under any other agreement entered into in connection with this Note. The acceptance by the Holder of any amount due under this Note after

the same is due shall not constitute a waiver of the right to require prompt payment, when due, of all other amounts due under this Note or to declare that an event of default has occurred under this Note with respect to any other amount not paid when due.

4. Default. If any payment required under this Note is not made when due or if a material breach under any the Deed of Trust or any other agreement entered into in connection with this Note occurs, the entire unpaid principal balance of this Note, together with all accrued but unpaid interest and any late charges due under this Note, shall, at the option of the Holder, become due and payable without presentment, demand, protest or notice of any kind, all of which are expressly waived by the undersigned and all endorsers, guarantors, sureties, accommodation parties and other persons at any time liable for all or any portion of the indebtedness evidenced by this Note, and shall thereafter earn interest, both before and after judgment, at the Default Rate. Any forbearance, failure or delay by the Holder in exercising any right or remedy under this Note or otherwise available to the Holder shall not be deemed to be a waiver of such right or remedy, nor shall any single or partial exercise of any right or remedy preclude the further exercise of such right or remedy. The undersigned shall pay all reasonable costs and expenses incurred by the Holder in connection with the enforcement of this Note (regardless of the particular nature of such costs and expenses and whether incurred before or after the initiation of suit or before or after judgment), including, without limitation, court costs and attorneys' fees and costs.

5. Security. This Note shall be secured by a Utah Deed of Trust (the "Deed of Trust") on the undersigned's residential property owned by the undersigned and located in the State of Utah and a mortgage or deed of trust on the undersigned's residential property located in the State of Colorado.

6. Miscellaneous. The undersigned and all endorsers, guarantors, sureties, accommodation parties and other persons at any time liable for all or any portion of the indebtedness evidenced by this Note consent to all extensions of time, renewals, waivers or modifications that may be granted by the Holder with respect to the payment or other provisions of this Note, the release of all or any portion of any security given in connection with this Note, with or without substitution, and the release of any party liable under this Note. If this Note is executed by more than one person, each of such persons shall be jointly and severally liable for all of the obligations evidenced by this Note. Time is of the essence with respect to all obligations of the undersigned under this Note. The unenforceability or invalidity of any provision of this Note shall not affect the enforceability or validity of any other provision of this Note. The terms of this Note shall bind the undersigned and inure to the benefit of the Holder and its respective heirs, successors, assigns and legal representatives. The Holder may, in its sole discretion, assign part or all of its interest under this Note at any time or from time to time. This Note shall be governed by Utah law. This Note, the Deed of Trust and any other written agreement entered into in connection with this Note are a final expression of the agreement between the Holder and the undersigned and may not be contradicted by evidence of any alleged oral agreement.

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THE UNDERSIGNED has executed and delivered this Note on the date set forth below.

Date: October 25, 2001

/s/ Lori H. Bush  
LORI H. BUSH

D. Matthew Dorny  
Nu Skin Enterprises, Inc.  
75 West Center Street  
Provo, Utah 84601

UTAH DEED OF TRUST

THIS TRUST DEED (this "Trust Deed") is executed as of the 25<sup>th</sup> day of October, 2001, by LORI H. BUSH (the "Trustor"), in favor of MERRILL TITLE COMPANY ("Trustee"), and NU SKIN ENTERPRISES, INC., a Delaware corporation ("Beneficiary"), whose address is 75 West Center Street, Provo, Utah 84601.

FOR good and valuable consideration, and in order to secure for the benefit of Beneficiary the following obligations (collectively, the "Obligations"): (i) the timely payment and performance of the obligations of Trustor under this Trust Deed, under the promissory note (the "Note") of even date with this Trust Deed, executed by Trustor, as maker, in favor of Beneficiary, as payee, in the principal amount of Eight Hundred Fifteen Thousand Dollars (\$815,000.00), payable with interest as set forth in the Note, and under any other instruments given to further evidence or secure such obligations, as this Trust Deed, the Note or such other instruments may be extended, renewed, modified, amended or replaced from time to time; and (ii) the payment of any loans or advances made after the date of this Trust Deed for any purpose by Beneficiary to Trustor,

TRUSTOR CONVEYS, WARRANTS AND TRANSFERS TO TRUSTEE, IN TRUST, WITH POWER OF SALE, the following:

The land (the "Land") located in Salt Lake County, Utah, more particularly described as follows:

All of Lot 1, AMENDED HIDDEN OAKS ESTATES NO. 4, according to the official plat thereof, as recorded in the office of the Salt Lake County Recorder. Parcel Identification Number 28-02-277-019,

which parcel has the address of 3491 East Danish Road, Sandy, Utah 84093.

TOGETHER WITH all buildings, structures and other improvements on or after the date of this Trust Deed located on the Land (collectively, the "Improvements"), and all air and water rights, water stock, rights-of-way, easements, tenements, hereditaments, possessory rights, claims (including mining claims), privileges, appurtenances and fixtures belonging to, or used or enjoyed with, all or any part of the Land, including, without limitation, all right, title and interest of Trustor, now owned or acquired after the date of this Trust Deed. The Land, the Improvements and all of the foregoing are collectively referred to in this Trust Deed as the "Property."

TRUSTOR AGREES WITH TRUSTEE AND BENEFICIARY AS FOLLOWS:

1. Obligations; Certain Proceedings. Trustor shall timely pay and perform the Obligations and all obligations under any other encumbrance or lien on the Property. Trustor shall maintain this Trust Deed as a valid lien on, and security interest in, the Property of equal priority to that created by this Trust Deed, shall preserve and protect Trustor's interest in the Property and the interests of Trustee and Beneficiary under this Trust Deed, and shall appear in and defend any action or proceeding which may affect the Property or the obligations of Trustor or the interests of Trustee or Beneficiary under this Trust Deed.

2. Maintenance and Use. Trustor shall occupy, establish and use the Property as Trustor's principal residence within sixty days after this execution of this Trust Deed. Trustor shall (a) maintain the Property in good condition and repair, (b) comply with all laws, ordinances, rules, regulations, covenants, conditions and restrictions relating to the Property, (c) not permit nuisances to exist or commit or permit waste in or on the Property, (d) promptly complete in a good and workmanlike manner any Improvements which may be constructed, and promptly restore and repair in like manner any Improvements which may be damaged or destroyed, (e) preserve and extend all rights, licenses and permits (including, without limitation, zoning variances, special exceptions, special permits and non-conforming uses) which are applicable to the Property, and (f) immediately on discovery, clean up all hazardous substances, hazardous wastes, pollutants and contaminants located on the Property. Trustor shall do or refrain from doing any act which, from the character or use of the Property, is reasonably necessary to protect and preserve the fair market value of the Property, any specific enumerations in this Trust Deed not limiting such general obligation. Trustor shall indemnify, defend and hold harmless Trustee and Beneficiary from and against all liabilities, claims, losses, damages, costs and expenses (including, without limitation, cleanup costs and attorneys' fees) directly or indirectly arising out of, related to or connected with any hazardous substances, hazardous wastes, pollutants or contaminants located on the Property. The liability of Trustor under the indemnity set forth in the preceding sentence shall arise on the discovery of an unacceptable environmental condition and shall survive the exercise of the power of sale, foreclosure of this Trust Deed as a mortgage or any other event. (As used in this Trust Deed, the terms "hazardous substances," "hazardous wastes," "pollutants" and "contaminants" mean any substances, wastes, pollutants or contaminants included within those respective terms under any law, ordinance, rule or regulation, whether now existing or enacted or amended after the date of this Trust Deed.)

3. Development. Without Beneficiary's prior written consent, Trustor shall not do any of the following: (a) make any material change to the Property or to the use of the Property; (c) initiate or support any zoning reclassification of the Property, seek any variance under existing zoning ordinances applicable to the Property or use or permit the use of the Property in a manner which would be a nonconforming use under applicable zoning ordinances; (d) impose any covenants, conditions, restrictions, easements or rights-of-way on the Property, execute or file any subdivision plat affecting the Property or consent to the annexation of the Property to any municipality; or (e) permit the Property to be used by any person in such manner as might make possible a claim of adverse usage or possession or of implied dedication or easement.

4. Payment of Certain Impositions. Trustor shall pay when due all taxes, assessments and charges relating to or levied against the Property, including, without limitation, real and personal property taxes, general and special assessments, utility charges, mechanics' and materialmen's charges, and charges arising from any covenants, conditions or restrictions relating to the Property. Trustor shall also pay to Beneficiary the amount of all taxes, assessments and charges which may be levied by any governmental

authority on this Trust Deed, the Obligations or Beneficiary by reason of the interest of Beneficiary under this Trust Deed. Upon the request of Beneficiary, Trustor shall deliver to Beneficiary official receipts of the appropriate taxing or other authority or other proof satisfactory to Beneficiary within ten (10) days after the date any such taxes, assessments or charges are due and payable, evidencing the payment of such taxes, assessments or charges. Trustor may contest in good faith the validity of any mechanic's or materialman's lien.

5. Insurance. Trustor shall maintain insurance policies (collectively, the "Policies") with respect to the Property, in amounts and forms and with deductibles acceptable to Beneficiary, providing hazard insurance insuring against fire, extended coverage risks and such other risks as Beneficiary may require, including, without limitation, the risk of damage caused by earthquake and flooding, with replacement cost coverage and agreed value endorsement. The hazard insurance policy shall contain a standard lender's loss payable endorsement, in favor of and in a form acceptable to Beneficiary. Beneficiary shall be named as an additional insured under the liability insurance policy, and such insurance shall be primary and non-contributing in the event of loss with any other insurance Beneficiary may carry. The insurers concerned shall agree that the coverage under the Policies will not be modified or canceled unless at least thirty (30) days advance written notice of the proposed modification or cancellation has been given to Beneficiary. Beneficiary may review the Policies from time to time and require that the same be modified so as to protect Beneficiary's interests. Such insurance shall be carried with companies approved by Beneficiary. Trustor shall deliver to Beneficiary (at the option of Beneficiary) either the originals of the Policies or certificates duly executed by the insurers evidencing such insurance coverage. All renewal and replacement policies must be delivered to Beneficiary at least fifteen (15) days before the expiration of the old policies.

6. Reserve. On written notice by Beneficiary to Trustor, Trustor shall pay to Beneficiary on the first day of each month an amount equal to one-twelfth (1/12) of all taxes, assessments and insurance premiums required to be paid under this Trust Deed by Trustor, in such manner as to provide Beneficiary with sufficient funds to pay such taxes, assessments and premiums at least thirty (30) days prior to their respective due dates. Such funds may be commingled with other funds of Beneficiary, shall not bear interest and shall periodically be used by Beneficiary for the payment of such taxes, assessments and premiums. Nothing contained in this Trust Deed shall cause Beneficiary to be deemed a trustee of such funds or to be obligated to pay any amounts in excess of such funds. If such funds are insufficient to pay all of such taxes, assessments and premiums, Trustor shall immediately pay the deficiency to Beneficiary.

7. Condemnation or Damage. Trustor shall immediately give written notice to Beneficiary of the institution of any proceedings for the taking of the Property or of the occurrence of any damage to the Property, and Beneficiary shall receive all compensation, awards and insurance and other proceeds (collectively, the "Proceeds") distributed in connection with such taking or damage. Each person concerned is authorized and directed to make payments for such taking or damage directly to Beneficiary, instead of to Beneficiary and Trustor jointly. Beneficiary may, but shall not be obligated to, commence, appear in and prosecute in its own name any action or proceeding and make any compromise or settlement in connection with such taking or damage. After deducting from the Proceeds all costs and expenses (including attorneys' fees) incurred by Beneficiary in connection with such action, proceeding, compromise or settlement, Beneficiary may use the Proceeds to reduce the Obligations (whether or not then due) or to restore or repair the Property damaged. If Beneficiary determines to use the Proceeds for restoration and repair of the Property, the Proceeds shall be made available to Trustor for use in restoring or repairing the

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Property in accordance with plans and specifications and construction arrangements approved by Beneficiary. Beneficiary or its nominee shall hold the Proceeds and from time to time shall, on compliance with such conditions or requirements as may be imposed by Beneficiary, disburse portions of the Proceeds to Trustor or to those entitled to the Proceeds as progress is made on such restoration and repair. If any of the Proceeds remain after the entire costs of such restoration and repair have been paid, Beneficiary may use such remaining Proceeds to reduce the Obligations (whether or not then due) or may remit the same to Trustor.

8. Assignment of Leases and Rents. In the event Beneficiary consents to Trustor leasing or renting the Property in the future, Trustor absolutely, irrevocably and unconditionally assigns to Beneficiary all future leases, subleases and rental agreements covering the Property (collectively, the "Leases"), and all rents, issues, profits and income (including security deposits) arising from the Property (collectively, the "Rents"), together with the right, power and authority to enforce the Leases, collect the Rents and apply the Rents to any of the Obligations. Notwithstanding anything contained in this Trust Deed to the contrary, the assignment set forth in the preceding sentence is an absolute, irrevocable and unconditional present assignment from Trustor to Beneficiary and not merely the passing of a security interest. Trustor may, on behalf of Beneficiary, enforce the Leases and collect the Rents (but not more than one (1) month in advance) at any time a default does not exist under this Trust Deed and an event or condition does not exist which with the giving of notice or lapse of time or both would result in a default under this Trust Deed. Trustor shall hold the Rents so collected in trust for Beneficiary and shall use so much of the Rents as is required for the satisfaction of the Obligations. On the occurrence of a default under this Trust Deed or an event or condition which with the giving of notice or lapse of time or both would result in a default under this Trust Deed, the right of Trustor to enforce the Leases and collect the Rents shall automatically terminate, and Trustor shall immediately pay to Beneficiary all of the Rents then held by Trustor. All tenants, lessees and other persons having any obligation to make any payment in connection with the Property are authorized and directed to make such payment directly to Beneficiary on the demand of Beneficiary. The receipt by Beneficiary of such payment shall be a good and sufficient discharge of the obligation of the tenant, lessee or other person concerned to make the payment connected with the amount so received by Beneficiary. Nothing contained in this Paragraph shall be construed to make Beneficiary a mortgagee in possession or make Beneficiary responsible for any matters relating to the Property or the Leases.

9. Transfers and Encumbrances. Without the prior written consent of Beneficiary, which may be withheld by Beneficiary in its sole discretion, Trustor shall not, directly or indirectly, do any of the following: (a) sell, convey, assign or transfer the Property, the Leases or the Rents, or contract to do so, voluntarily, involuntarily or by operation of law; or (b) lease, rent or otherwise surrender possession of the Property, or contract to do so, voluntarily, involuntarily, or by operation of law. Beneficiary's consent to one or more of such transactions shall not be a waiver of the right to require such consent with respect to any subsequent or successive transactions. Such consent of Beneficiary may be conditioned on satisfaction of such requirements as Beneficiary may impose.

10. Mortgagee Title Insurance. Trustor shall provide to Beneficiary a policy of title insurance insuring the lien of this Trust Deed, in form and amount, and issued by a company, acceptable to Beneficiary.

11. Representations and Warranties. Trustor covenants with, and represents and warrants to,



Trustee and Beneficiary that all of the following statements are true as of the date of this Trust Deed and will remain true: (a) Trustor is lawfully seized of indefeasible fee simple marketable title to the Property; (b) this Trust Deed has been duly executed by Trustor, and the Property has been duly conveyed to Trustee under this Trust Deed; (c) the Property is free and clear of all liens, encumbrances and interests of third parties not approved in writing by Beneficiary; (d) Trustor will defend title to the Property against all claims and demands; (e) any personal property securing the Obligations has been paid for in full, is owned solely by Trustor and is not used and was not bought for personal, family or household purposes; and (f) all obligations incurred by Trustor in connection with or which relate to the Property are current and without default.

12. Default. Trustor shall be in default under this Trust Deed on the occurrence of any of the following: (a) Trustor fails to timely pay or perform any of the Obligations; (b) an event of default occurs under any lien or encumbrance affecting the Property; (c) Trustor or any guarantor of the Obligations (i) files a voluntary petition in bankruptcy or files a petition or answer seeking or acquiescing in a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation relating to bankruptcy, insolvency or other relief for debtors, (ii) consents to or acquiesces in the appointment of a trustee, receiver or liquidator of Trustor or such guarantor, the Property or the Rents, (iii) makes a general assignment for the benefit of creditors, or (iv) admits in writing its inability to pay its debts generally as they become due; (d) a court of competent jurisdiction enters an order, judgment or decree approving a petition filed against Trustor or such guarantor seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future law or regulation relating to bankruptcy, insolvency or other relief for debtors; (e) a trustee, receiver or liquidator of Trustor, such guarantor, the Property or the Rents is appointed without the consent or acquiescence of Trustor or such guarantor; (f) a writ of execution, attachment or similar process is issued or levied against the Property or the Rents or a judgment involving monetary damages is entered against Trustor which becomes a lien on the Property or the Rents; (g) any representation or warranty contained in this Trust Deed or in any other instrument executed by Trustor is or becomes untrue; or (h) a change occurs in the condition or affairs (financial or otherwise) of Trustor or such guarantor which materially impairs Beneficiary's security or increases its risks.

13. Remedies. On a default under this Trust Deed, Trustee or Beneficiary may (but is not obligated to) do any one or more of the following: (a) without notice or demand on Trustor and without releasing Trustor from any of the Obligations, pay or perform a portion or all of the Obligations that Trustor have failed to pay or perform, and Trustor shall immediately reimburse Trustee and Beneficiary for all costs and expenses (including attorneys' fees) incurred in connection with such payment or performance, with interest on such costs and expenses at fifteen percent (15%) per annum (the "Default Rate"), both before and after judgment; (b) declare all of the Obligations immediately due and payable and charge interest on the Obligations then outstanding at the Default Rate, both before and after judgment; (c) exercise the power of sale under applicable law; (d) foreclose this Trust Deed in the manner provided by law for the foreclosure of mortgages on real property; (e) exercise all of the rights and remedies of a secured party under the UCC (whether now existing or created after the date of this Trust Deed); (f) take possession or appoint a receiver to take possession of and (without liability or obligation) (i) hold, occupy, operate, use, maintain, repair and conserve the value of the Property, (ii) make, modify, enforce and terminate the Leases, (iii) collect the Rents and (after deducting from the Rents maintenance and operating expenses, including reasonable management fees) apply the same to the Obligations, and (iv) exercise such other powers as may be fixed by the court; (g) offset the Obligations against any amounts owed by

Beneficiary to Trustor and apply toward the Obligations all funds of Trustor which Beneficiary may have in its possession or under its control; (h) if permitted by applicable law, sue on the Note; or (i) exercise any other rights and remedies available at law or in equity. A receiver appointed pursuant to this Paragraph may be appointed without notice to Trustor, and without regard to whether the Property is in danger of being lost, removed or materially injured, whether the Property or any other security is sufficient to discharge the Obligations or whether Beneficiary forecloses this Trust Deed judicially or nonjudicially, it being the intention of Trustor to authorize the appointment of a receiver when Trustor is in default under this Trust Deed and Beneficiary has requested the appointment of a receiver. Trustor consents to the appointment of the particular person (including an officer, director, partner or employee, as the case may be, of Beneficiary) designated by Beneficiary as "receiver" and waive any right to suggest or nominate any person as receiver in opposition to the person designated by Beneficiary. Neither the entering on and taking possession of the Property nor the collection and application of the Rents as aforesaid shall cure or waive any default or notice of default under this Trust Deed, invalidate any act done pursuant to such notice of default or operate to postpone or suspend any of the Obligations. No remedy provided in this Trust Deed shall be exclusive of any other remedy at law or in equity (whether now existing or created after the date of this Trust Deed), and all remedies under this Trust Deed may be exercised concurrently, independently or successively from time to time. The failure on the part of Trustee or Beneficiary to promptly enforce any right under this Trust Deed shall not operate as a waiver of such right, and the waiver of any default shall not constitute a waiver of any subsequent or other default.

14. Power of Sale; Foreclosure. The procedures relating to the exercise of the power of sale or foreclosure of this Trust Deed as a mortgage shall be governed by then existing law, or to the extent such procedures are not covered by then existing law, by law existing as of the date of this Trust Deed. Following foreclosure of this Trust Deed as a mortgage, the purchaser at the sale held pursuant to judicial decree shall be entitled to possession of the Property during any period of redemption. If a deficiency remains after application of the proceeds of sale following default under this Trust Deed (whether such sale is held pursuant to the exercise of the power of sale or judicial decree), Trustor shall pay the same to Beneficiary immediately on determination of the amount of such deficiency. Such deficiency shall bear interest at the Default Rate, both before and after judgment.

15. Security Agreement; Fixture Filing. This Trust Deed constitutes a security agreement with respect to all personal property and fixtures in which Beneficiary is granted a security interest under this Trust Deed, and Beneficiary shall have all of the rights and remedies of a secured party under the UCC (whether now existing or created after the date of this Trust Deed), as well as any other rights and remedies available at law or in equity. This Trust Deed, with Trustor, as debtor, and Beneficiary, as secured party, also constitutes a fixture filing with respect to any part of the Property which is or may become a fixture. The record owners of the Property is the Trustor. Beneficiary is not a seller or purchase money lender of the Personal Property. Trustor shall immediately notify Beneficiary if the name or identity of Trustor is changed, or if the address of Trustor is changed to an address different from the address of the Property. With respect to any instrument or chattel paper covered by this Trust Deed, neither Trustee nor Beneficiary need take any steps to preserve rights against prior parties. A carbon, photographic or other reproduction of a financing statement is sufficient as a financing statement.

16. Waiver. Trustor waives, to the fullest extent permitted by law, any right (a) to obtain a partial release of the Property from the lien of this Trust Deed by paying less than all of the Obligations, (b) to partially redeem the Property by paying less than the amount necessary to effect redemption in full,

(c) to have the Property or any other property securing the Note marshalled on the foreclosure of the lien of this Trust Deed, and agrees that any court having jurisdiction to foreclose such lien may order the Property and such other property sold as an entirety, (d) to direct the order of the sale of the Property or any other property securing the Note, and agrees that Beneficiary may exhaust the security given for the Note in any order, and (e) relating to procedural or substantive limitations on the recovery of any deficiency, such as those set forth in Section 57-1-32 of the Utah Code Ann. (1953), as amended, including, without limitation, any requirement that Trustee or Beneficiary establish a deficiency in connection with the indebtedness secured by this Trust Deed prior to the time that all of the security given for payment of the Note has been exhausted. Trustor further waives and relinquishes all exemptions and homestead rights which may exist with respect to the Property, and agrees not to file a declaration of homestead with respect to the Property.

17. Expenses and Fees. Trustor shall pay all costs, expenses and fees (including, without limitation, trustee's and attorneys' fees) which are incurred by Trustee or Beneficiary in connection with the Obligations, this Trust Deed, the servicing of the indebtedness secured by this Trust Deed and the enforcement or protection of the rights and interests of Trustee or Beneficiary under this Trust Deed, including, without limitation, the monitoring of any insolvency or bankruptcy proceedings, with interest on such costs, expenses and fees at the Default Rate, both before and after judgment.

18. Further Assurances. Trustor shall at any time and from time to time, on request of Beneficiary, take or cause to be taken any action, and execute, acknowledge, deliver or record any further instruments, which Beneficiary deems necessary or appropriate to carry out the purposes of this Trust Deed and to perfect and preserve the lien and security interest intended to be created and preserved in the Property.

19. Request for Notices. Trustor requests that a copy of any notice of default and a copy of any notice of sale under this Trust Deed be mailed to Trustor at the address of the Property.

20. Miscellaneous. Time is of the essence of this Trust Deed. This Trust Deed shall be binding on Trustor and shall inure to the benefit of Trustee and Beneficiary and their respective successors and assigns. The liability of each person executing this Trust Deed as Trustor shall be joint and several. The invalidity or unenforceability of any provision of this Trust Deed shall in no way affect the validity or enforceability of any other provision. This Trust Deed shall be governed by and construed in accordance with the laws of the State of Utah. Paragraph captions and defined terms in this Trust Deed are for convenience of reference only and shall not affect the construction of any provision of this Trust Deed. All pronouns shall be deemed to refer to the masculine, feminine or neuter or singular or plural, as the identity of the parties may require.

[Intentionally Left Blank]

BY SIGNING BELOW, TRUSTOR accepts and agrees to the terms and covenants contained in this Trust Deed and in any rider(s) executed by Trustor and recorded with it.

TRUSTOR:

/s/ Lori H. Bush  
Lori H. Bush

STATE OF UTAH )  
 ) ss:  
COUNTY OF SALT LAKE )

On this 25<sup>th</sup> day of October, 2001, personally appeared before me, Lori H. Bush, the signer of the above instrument, who duly acknowledged to me that she executed the same.

\_\_\_\_\_  
Notary Public

My Commission expires: \_\_\_\_\_

REQUEST FOR RECONVEYANCE

To Trustee:

The undersigned is the holder to the note or notes secured by this Trust Deed. Said note or notes, together with all other indebtedness secured by this Trust Deed, have been paid in full. You are hereby directed to cancel said note or notes and this Trust Deed, which are delivered hereby, and to reconvey, without warranty, all of the estate now held by you under this Trust Deed to the person or persons legally entitled thereto.

Dated: \_\_\_\_\_

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

Mail Reconveyance to: \_\_\_\_\_  
\_\_\_\_\_

\$14,581,621.50

July 13, 1999

FOR VALUE RECEIVED, Nu Skin Enterprises, Inc., a Delaware corporation (the "Maker"), promises to pay to Maple Hills Investment, Inc., a Delaware corporation formerly known as Nu Skin USA, Inc. (the "Holder"), at One Nu Skin Plaza, 75 West Center Street, Provo, Utah 84601, or such other place as designated in writing by the Holder, the aggregate principal amount of Fourteen Million Five Hundred Eighty-One Thousand Six Hundred Twenty-One Dollars and 50/100 (\$14,581,621.50). All capitalized terms used in this Promissory Note (the "Note") but not otherwise defined herein shall be deemed to have the meanings ascribed to them in the Big Planet Merger Agreement (as that term is defined in paragraph 5 below).

1. **Term.** This Note shall be payable over three (3) years from the date hereof in equal quarterly installments of principal and interest of One Million Three Hundred Forty-Seven Thousand Two Hundred Seventy-Four Dollars and 38/100 (\$1,347,274.38), subject to the right of the Maker to offset payments hereunder as set forth in paragraph 6 below. The first quarterly installment of principal and interest hereunder shall be due and payable on October 13, 1999, and subsequent payments will be due and payable on the thirteenth day of each three (3) month period thereafter until all principal and accrued interest evidenced by this Note has been paid in full.
2. **Interest.** The outstanding principal balance of this Note shall accrue interest at six and one-half percent (6.50%) per annum, computed on the basis of a year of 365 days for the actual number of days elapsed. Notwithstanding any provision hereof, the total liability for payments in the nature of interest shall not exceed the limits imposed by applicable law.
3. **Prepayment.** The Maker may prepay all or any portion of the outstanding principal balance of this Note, together with the full amount of any accrued interest thereon through the date of prepayment, at any time without premium or penalty and without prior notice to the Holder. No prepayment shall relieve the Maker of its obligation to repay in full the outstanding aggregate principal balance of this Note, together with all accrued interest hereon, on the maturity date hereof as set forth in paragraph 1 above. Time is of the essence of payment.
4. **Application of Payments.** All payments and prepayments made hereunder shall be applied first toward the payment and satisfaction of accrued but unpaid interest, if any, and second toward reduction of the outstanding principal balance hereof.
5. **Issued Pursuant to Big Planet Merger Agreement.** This Note is non-negotiable and is being issued by the Maker pursuant to the Agreement and Plan of Merger and Reorganization dated May 3, 1999, entered into between and among the Maker, Big Planet Holdings, Inc., a Delaware corporation ("BP Holdings"), Big Planet, Inc., a Utah corporation, Nu Skin USA, Inc., a Delaware corporation now known as Maple Hills Investment, Inc. ("Nu Skin USA"), Richard W. King, an individual ("King"), Kevin V. Doman, an individual ("Doman"), and Nathan W. Ricks, an individual ("Ricks"), as the same has been amended by a First Amendment to Agreement and Plan of Merger and Reorganization dated July 9, 1999 (as amended, the "Big Planet Merger Agreement"). In lieu of depositing into escrow cash proceeds to secure the indemnification and other obligations arising from, related to, or contemplated by the Big Planet Merger Agreement or the Agreement and Plan of Merger dated May 3, 1999, entered into between and among the Maker, NSC Sub, Inc., a Delaware corporation, NSG Sub, Inc., a Delaware corporation, NSM Sub, Inc., a Delaware corporation, NFB Sub, Inc., a Delaware corporation, Nu Skin Canada, Inc., a Utah corporation, Nu Skin Guatemala, Inc., a Delaware corporation, Nu Skin Guatemala, S.A., a Guatemalan corporation, Nu Skin Mexico, Inc., a Delaware corporation, Nu Skin Mexico, S.A. de C.V., a Mexican corporation, and the individual stockholders who executed the signature page thereto (the "Affiliate Merger

Agreement"), or depositing into the Escrow created by the Escrow Agreement (as those terms are defined in the Asset Purchase Agreement, as that term is defined below) additional cash proceeds from the transactions arising from, related to, or contemplated by the Asset Purchase Agreement dated March 8, 1999 by and among the Maker, Nu Skin United States, Inc., a Delaware corporation ("Nu Skin United States"), and Nu Skin USA (the "Asset Purchase Agreement"), the Holder agrees that the Maker may offset against amounts due and owing under this Note as set forth in paragraph 6 below.

6. **Offset.** The Holder agrees that this Note and any payment due hereunder may be offset by any amounts due and owing to the Maker or BP Holdings or their respective Affiliates under the Big Planet Merger Agreement, the Affiliate Merger Agreement, or the Asset Purchase Agreement, subject in all respects, however, to (a) the Indemnification Limitation Agreement dated March 8, 1999, entered into by and among the Maker, Nu Skin United States, Nu Skin International, Inc., a Utah corporation ("Nu Skin International"), BP Holdings, Nu Skin USA, King, Doman, Ricks, and the stockholders who executed the signature page thereto, and (b) the First Amendment to Indemnification Limitation Agreement dated May 3, 1999, entered into by and among the Maker, Nu Skin United States, Nu Skin International, BP Holdings, Nu Skin USA, King, Doman, Ricks, and the stockholders who executed the signature page thereto. In addition to offsetting amounts due and owing under this Note for indemnification obligations, the Holder agrees that amounts due and owing under this Note may be offset against for all adjustments to the consideration under the Big Planet Merger Agreement, the Affiliate Merger Agreement, and the Asset Purchase Agreement, and all other amounts from time to time owing to the Maker or BP Holdings or any of their respective Affiliates under the Big Planet Merger Agreement, the Affiliate Merger Agreement, or the Asset Purchase Agreement. The Holder furthermore agrees that the Maker can, at its election, offset against this Note any other amounts owed by the Holder to Nu Skin International or any of its Affiliates.

6.1 **Offset Procedure.** In the event the Maker desires to offset any amount owed to it (or to BP Holdings or Nu Skin International or any of their respective Affiliates), as provided by paragraph 6 above, the Maker shall provide the Holder with a written notice of such offset (each, an "Offset Notice"). Each Offset Notice shall be transmitted by the Maker to the Holder either by personal delivery or first class registered or certified mail, postage prepaid. Each Offset Notice shall set forth (a) the dollar amount to be offset against this Note, (b) an indication of the agreement or other obligation from which the offset arose and the relevant facts that resulted in the Holder becoming obligated to the Maker and subject to an offset against this Note under this paragraph 6, and (c) a place for the Holder to (i) indicate its agreement or disagreement to the amount to be offset hereunder and (ii) execute the same.

6.1.1 **Agreement on Offset Amount.** If the Holder is in agreement with the amount to be offset against this Note, as set forth in the Offset Notice, the Holder shall so indicate on and execute the Offset Notice and return the originally executed Offset Notice to the Maker within ten (10) days after its receipt thereof. Upon the receipt by the Maker of such originally executed Offset Notice indicating the Holder's agreement with the amount to be offset against this Note, the principal amount of this Note shall be deemed to be reduced by the amount set forth in the Offset Notice.

6.1.2 **No Agreement on Offset Amount.** If the Holder is not in agreement with the amount to be offset against this Note, as set forth in the Offset Notice, the Holder shall so indicate on the Offset Notice and return an unexecuted copy thereof to the Maker with an indication of all relevant facts and the offset amount that the Holder believes is appropriate, if any. The Maker and the Holder shall then meet in good faith during the ten (10) day period following the receipt by the Maker of the Holder's objection and attempt to resolve the disagreement and determine a mutually agreeable offset amount. If, after negotiation, a mutually agreeable offset amount is agreed upon, the provisions of paragraph 6.1.1 above

shall apply. If, however, after such negotiation, a mutually agreeable offset amount cannot be mutually agreed upon between the Maker and the Holder, within ten (10) days after the conclusion of such

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negotiations either the Maker or the Holder may submit the matter to the American Arbitration Association for resolution in accordance with its Commercial Arbitration Rules. Any such arbitration proceeding shall be held in Provo, Utah and be heard by a single arbitrator appointed by the American Arbitration Association, which hearing shall be commenced within fourteen (14) days after the matter is submitted for arbitration and completed within forty-five (45) days after the commencement thereof. The decision of the American Arbitration Association shall be final, binding, and non-appealable. All costs and expenses of the American Arbitration Association and of such proceeding shall be divided equally between the Maker and the Holder. Upon the rendering by the American Arbitration Association of its determination of the offset amount, if any, the written determination of the American Arbitration Association shall be deemed to be the agreement by the Holder of the amount to be offset against this Note and the provisions of paragraph 6.1.1 above shall otherwise apply.

7. **Default.** In the event of a failure by the Maker to pay when due any installment of principal and/or interest due hereunder, as set forth in paragraph 1 above, and the continuance of such failure to pay for a period of thirty (30) days after receipt by the Maker of a written notice from the Holder of such failure (which notice shall be transmitted either by personal delivery or mailed by first class registered or certified mail, postage prepaid), this Note shall be considered to be in default; provided, however, that a default shall not be deemed to have occurred under this Note if the Maker does not pay when due any installment of principal and/or interest due hereunder (or any portion thereof) on account of an offset having been made under this Note pursuant to paragraph 6 above. In the event of a default under this Note, the Maker shall pay to the Holder, in addition to such amounts of principal and/or interest then due, all costs of collection, including reasonable attorneys' fees.

8. **Assignment.** This Note may not be assigned, negotiated, or transferred by the Holder without the express prior written consent of the Maker.

9. **Severability; Headings.** Should any provision of this Note be determined to be illegal or unenforceable, such provision or provisions shall be modified to the minimum extent necessary to make it or its application valid and enforceable, and all other provisions hereof nevertheless shall be valid, enforceable, and effective. All headings used in this Note are for convenience only and shall not be used to construe or interpret this Note. Except as otherwise indicated, all references herein to paragraphs refer to the paragraphs of this Note.

10. **Interpretation; Notices.** The provisions of this Note shall be deemed to be independent and severable. The invalidity or partial invalidity of any provision or portion of this Note shall not affect the validity or enforceability of any other provision or portion of this Note. All notices, requests, consents, or other communications hereunder shall be in writing and shall be either delivered personally or mailed by first class registered or certified mail, postage prepaid.

11. **Governing Law.** This Note shall be governed by the internal laws, and not the laws of conflicts, of the State of Utah.

NU SKIN ENTERPRISES, INC.,  
a Delaware corporation

By: /s/ Truman Hunt  
Its: Vice President

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## FIRST AMENDMENT

THIS FIRST AMENDMENT dated as of December 14, 2001 (this "Amendment") amends the Credit Agreement dated as of May 10, 2001 (the "Credit Agreement") among Nu Skin Enterprises, Inc. (the "Company"), various financial institutions (the "Lenders") and Bank of America, N.A., as administrative agent (in such capacity, the "Administrative Agent"). Terms defined in the Credit Agreement are, unless otherwise defined herein or the context otherwise requires, used herein as defined therein.

WHEREAS, the Company, the Lenders and the Administrative Agent have entered into the Credit Agreement; and

WHEREAS, the parties hereto desire to amend the Credit Agreement in certain respects as more fully set forth herein;

NOW, THEREFORE, the parties hereto agree as follows:

SECTION 1 Amendments. Subject to the satisfaction of the conditions precedent set forth in Section 3, the Credit Agreement shall be amended as follows.

1.1 Amendment to Preamble. The second "WHEREAS" clause is restated in its entirety to read as follows:

WHEREAS, the Lenders are willing to extend commitments to make Loans to, and to issue or participate in letters of credit issued for the account of, the Company hereunder for the purposes provided herein and on the terms and subject to the conditions set forth herein.

1.2 Amendments to Definitions.

(a) The definition of "Eurodollar Loan" is amended in its entirety to read as follows:

Eurodollar Loan means any Loan denominated in US Dollars which bears interest at a rate determined by reference to the Eurodollar Rate (Reserve Adjusted).

(b) Clause (c) of the definition of "Interest Period" is amended by inserting the words "Dollar Equivalent" before the phrase "principal amount of all Yen LIBOR Loans and Eurodollar Loans" contained therein.

(c) The definition of "Stated Amount" is amended in its entirety to read as follows:

Stated Amount means, with respect to any Letter of Credit at any date of determination, the maximum aggregate Dollar Equivalent amount available for drawing thereunder at any time during the then ensuing term of such Letter of Credit under any and all circumstances, plus the aggregate Dollar Equivalent amount of all unreimbursed payments and disbursements under such Letter of Credit.

(d) Clause (b) of the definition of "Total Outstandings" is amended in its entirety to read as follows: "the aggregate Stated Amount of all Letters of Credit".

1.3 Addition of New Section 1.3. A new Section 1.3 is added to the Credit Agreement in appropriate numerical sequence to read as follows:

1.3 Currency Fluctuations. For purposes of calculating usage under Section 5 and the Total Outstandings as of any date (except as set forth in Sections 6.2(c) and 11.2.1(d)), (a) the Dollar Equivalent amount of each Yen LIBOR Loan shall be calculated (i) during the first year following the Signing Date, using the Spot Rate of Exchange as in effect on the Signing Date, and (ii) during each year thereafter, using the Spot Rate of Exchange as in effect on the most-recent annual anniversary of the Signing Date (or if such day is not a Business Day, on the next succeeding Business Day), and (b) the Stated Amount of each Letter of Credit denominated in a currency other than Dollars shall be calculated (i) on the date of the issuance thereof, (ii) on each date on which the Stated Amount of such Letter of Credit is changed, (iii) on each date on which the Commitment Amount is reduced pursuant to Section 6.1, or (iv) on any other date requested by the applicable Issuing Lender, in each case based upon the Spot Rate of Exchange for such date.

1.4 Amendment to Section 2.1.2. Clause (b)(ii) of Section 2.1.2 is amended by inserting the words "Dollar Equivalent" before the phrase "principal amount of all outstanding Loans" contained therein.

1.5 Amendment to Section 2.3.1. The second sentence of Section 2.3.1 is amended in its entirety to read as follows:

Each such notice shall be accompanied by an L/C Application, duly executed by the Company (together with any Subsidiary for the account of which the related Letter of Credit is to be issued) and in all respects satisfactory to the Administrative Agent and the applicable Issuing Lender, together with such other documentation as the Administrative Agent or such Issuing Lender may

reasonably request in support thereof, it being understood that each L/C Application shall specify, among other things, the date on which the proposed Letter of Credit is to be issued, the amount (which shall be denominated in Dollars or any other foreign currency (i) as to which a Dollar Equivalent may be readily calculated, (ii) which is readily available, freely transferable and convertible into Dollars and (iii) has been agreed to by the Issuing Lender), whether such Letter of Credit is to be transferable in whole or in part and the expiration date of such Letter of Credit (which shall not be later than the Termination Date and shall not result in the aggregate Stated Amount of all Letters of Credit scheduled to be outstanding after any date on which the Commitment Amount is scheduled to be reduced pursuant to Section 6.1(d)), plus the aggregate Dollar Equivalent principal amount of all Yen LIBOR Loans and Eurodollar Loans having Interest Periods ending after such date, to exceed the Commitment Amount scheduled to be in effect at the close of business on such date).

1.6 Amendment to Section 5.1. The second sentence of Section 5.1 is amended by inserting the words "Dollar Equivalent" before the phrase "principal amount of all outstanding Loans" contained therein.

1.7 Amendments to Section 5.3. Section 5.3 is amended by (a) inserting the words "Dollar Equivalent" immediately before the phrase "undrawn amount of such standby Letter of Credit" contained in clause (a) of that section and (b) inserting the words "Dollar Equivalent" immediately after the phrase "the greater of 0.125% of the" contained in clause (b) of that section.

1.8 Amendments to Section 6.2. Section 6.2 is amended as follows:

(a) Clause (a) is restated in its entirety to read as follows:

(a) Voluntary Prepayments. The Company may from time to time prepay the Loans in whole or in part; provided that the Company shall give the Administrative Agent (which shall promptly advise each Lender) notice thereof not later than 11:00 A.M., New York time, (i) in the case of Floating Rate Loans, on the day of such prepayment, (ii) in the case of Yen LIBOR Loans, at least five Business Days prior to the date of such prepayment, and (iii) in the case of Eurodollar Loans, at least three Business Days prior to the date of such prepayment, in each case specifying the Loans to be prepaid and the date (which shall be a Business Day) and amount of prepayment. Each partial prepayment of Floating Rate Loans and Eurodollar Loans shall be in an aggregate principal amount of \$1,000,000 or an integral multiple thereof and each partial prepayment of Yen LIBOR Loans shall be in an aggregate principal amount of ¥100,000,000 or an integral multiple thereof. After giving effect to any partial prepayment, each borrowing of Yen LIBOR Loans and Eurodollar Loans shall be in the applicable amount required for a Group pursuant to Section 2.2.1.

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(b) The heading of clause (b) is restated in its entirety to read "Mandatory Prepayments Resulting from Commitment Reductions".

(c) Clause "(c)" is redesignated as clause "(d)".

(d) A new clause (c) is added to Section 6.2 to read as follows:

(c) Mandatory Prepayments Resulting from Currency Fluctuations. If, as of the last Business Day of any month, the Total Outstandings (calculated (i) with respect to Yen LIBOR Loans, using the Spot Rate of Exchange for such day and (ii) with respect to Letters of Credit, as provided in Section 1.3(b)) exceed 110% of the Commitment Amount, (x) the Administrative Agent shall promptly notify the Company and (y) the Company shall, within seven Business Days following the receipt of such notice, prepay Loans by the amount of such excess (rounded upward, if necessary, to an integral multiple of (A) in the case of Floating Rate Loans and Eurodollar Loans, \$1,000,000 and (B) in the case of Yen LIBOR Loans, ¥100,000,000).

1.9 Addition of New Section 11.2.1(d). A new Section 11.2.1(d) is added to the Credit Agreement in appropriate sequence to read as follows:

(d) after giving effect to any borrowing made and any Letter of Credit issued during the period beginning on the date that a prepayment is required pursuant to Section 6.2(c) and ending on the immediately following May 10, the Total Outstandings (calculated (i) with respect to Yen LIBOR Loans, using the Spot Rate of Exchange for the date such prepayment was required and (ii) with respect to Letters of Credit, as provided in Section 1.3(b)) shall not exceed the Commitment Amount.

SECTION 2 Warranties. The Company represents and warrants to the Administrative Agent and the Lenders that, after giving effect to the effectiveness hereof, (a) each warranty set forth in Section 9 of the Credit Agreement is true and correct in all material respects as of the date of the execution and delivery of this Amendment by the Company, with the same effect as if made on such date, and (b) no Event of Default or Unmatured Event of Default exists.

SECTION 3 Effectiveness. The amendments set forth in Section 1 above shall become effective when the Administrative Agent shall have received (i) counterparts of this Amendment executed by the Company and the Required Lenders and (ii) a Confirmation, substantially in the form of Exhibit A, signed by the Company and each Subsidiary.

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SECTION 4 Miscellaneous.

4.1 Continuing Effectiveness, etc. As herein amended, the Credit Agreement shall remain in full force and effect and is hereby ratified and confirmed in all respects. After the effectiveness of this Amendment, all references in the Credit Agreement and the other Loan Documents to "Credit Agreement" or similar terms shall refer to the Credit Agreement as amended hereby.

4.2 Counterparts. This Amendment may be executed in any number of counterparts and by the different parties on separate counterparts, and each such counterpart shall be deemed to be an original but all such counterparts shall together constitute one and the same Amendment.

4.3 Governing Law. This Amendment shall be a contract made under and governed by the laws of the State of New York (without regard to principles of conflicts of laws, other than Title 15 of Article 5 of the New York General Obligations Law).

4.4 Successors and Assigns. This Amendment shall be binding upon the Company, the Lenders and the Administrative Agent and their respective successors and assigns, and shall inure to the benefit of the Company, the Lenders and the Administrative Agent and the respective successors and assigns of the Lenders and the Administrative Agent.

Delivered as of the day and year first above written.

NU SKIN ENTERPRISES, INC.

By /s/ Corey B. Lindley  
Title CFO, Executive Vice President

BANK OF AMERICA, N.A., as Administrative  
Agent and as a Lender

By /s/ Gretchen Spoo  
Title Principal

BANK ONE, NA with its main office in Chicago,  
Illinois (successor by merger to Bank  
One, Utah, NA)

By /s/ Mark F. Nelson  
Title Vice President

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**Exhibit A**

CONFIRMATION

Dated as of December 14, 2001

To: Bank of America, N.A., individually and as Administrative Agent (as defined below), and the other financial institutions party to the Credit Agreement referred to below

Please refer to (a) the Credit Agreement dated as of May 10, 2001 (the "Credit Agreement") among Nu Skin Enterprises, Inc., various financial institutions (the "Lenders") and Bank of America, N.A., as administrative agent (the "Administrative Agent"); (b) the other "Loan Documents" (as defined in the Credit Agreement), including the Guaranty and the Pledge Agreement; and (c) the First Amendment dated as of December 14, 2001 to the Credit Agreement (the "First Amendment").

Each of the undersigned hereby confirms to the Administrative Agent and the Lenders that, after giving effect to the First Amendment and the transactions contemplated thereby, each Loan Document to which such undersigned is a party continues in full force and effect and is the legal, valid and binding obligation of such undersigned, enforceable against such undersigned in accordance with its terms.

NU SKIN ENTERPRISES, INC.



By: /s/ Corey B. Lindley  
Name: Corey B. Lindley  
Title: CFO, Vice President

NU SKIN INTERNATIONAL, INC.  
NU SKIN HONG KONG, INC.  
NU SKIN TAIWAN, INC.  
NU SKIN UNITED STATES, INC.

By: /s/ Corey B. Lindley  
Name: Corey B. Lindley  
Title: CFO, Vice President

**DATED THIS 28TH DAY OF SEPTEMBER, 2001**

**BETWEEN**

**NU SKIN ENTERPRISES, INC.**

**AND**

**KIOW KIM YOON, FRANKIE**

**AND**

**DATO' MOHD NADZMI BIN MOHD SALLEH**

---

**SHAREHOLDERS AGREEMENT**  
(between shareholders of  
NU SKIN MALAYSIA HOLDINGS SDN. BHD.)

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**KHAW & PARTNERS  
ADVOCATES & SOLICITORS  
KUALA LUMPUR**

**THIS AGREEMENT** is made this 28th day of September 2001

**BETWEEN**

**NU SKIN ENTERPRISES, INC.**, (Registration No. 2659781), a company incorporated in the State of Delaware, United States of America and having its principal place of business at 75 West Center Street, Provo, Utah 84601, United States of America of the first part

**AND**

**KIOW KIM YOON, FRANKIE** (NRIC No. 570723-08-6077) (Former NRIC No. 5276427) of 27, Jalan Keruing, Kebun-Teh Park, Johor Baru of the second part.

**AND**

**DATA' MOHD NADZMI BIN MOHD SALLEH** (NRIC No. 540501-03-5293) of No. 36-1, Jalan PJU8/5B, Perdana Business Centre, Bandar Damansara Perdana, 47820 Petaling Jaya, Selangor Darul Ehsan of the third part.

**WHEREAS:-**

I. **NSMH**

A) NSMH is a private limited company incorporated in Malaysia on 3.7.2001.

B) As at the date of this Agreement:-

i) the authorised share capital of NSMH is **RM5,000,000.00** (Ringgit Five Million) divided into:-

a) **2,500,000** (Two Million Five Hundred Thousand) NSMH Shares; and

b) **2,500,000** (Two Million Five Hundred Thousand) ICPS;

ii) the issued and paid up share capital of NSMH is **RM2,500,002.00** (Ringgit Two Million Five Hundred Thousand and Two) divided into **2** (Two) NSMH Shares and **2,500,000** (Two Million Five Hundred) ICPS, all of which are held by NSE, a public listed company whose shares are publicly traded on the New York Stock Exchange;

iii) the directors of NSMH all being NSE's representatives are the following persons:-

a) BLAKE M. RONEY;

b) STEVEN J. LUND;

c) WANG SUI SANG; and

- d) FONG AH KOK; and
- iv) NSMH is currently not carrying on any other business except for its holding of NSMY Shares.

## II. NSMY

- A) NSMY, a wholly owned subsidiary of NSMH, is a private limited company incorporated in Malaysia on 19.9.1996.
- B) As at the date of this Agreement:-
  - i) the authorised share capital of NSMY is **RM5,000,000.00** (Ringgit Five Million) divided into **5,000,000** (Five Million) NSMY Shares;
  - ii) the issued and paid up share capital of NSMY is **RM2,500,002.00** (Ringgit Two Million Five Hundred Thousand and Two) divided into **2,500,002** (Two Million Five Hundred Thousand and Two) NSMY Shares held by NSMH; and
  - iii) the directors of NSMY all being NSE's representatives are the following persons:-
    - a) BLAKE M. RONEY;
    - b) STEVEN J. LUND;
    - c) KHAW YEWE-MEI; and
    - d) FONG AH KOK.
- C) By its letter dated 12th September 2001 bearing reference KPDN (DN) (JL) 8/6/1-935 Jld 5(3) to NSMY, the Controller of Direct Sales of the MDTCA approved NSMY's application for a DS Licence for a duration of **1** (One) year subject, among others, to the condition that it ensures that at least **40%** (Forty Percent) of the shares in NSMY are held by Bumiputera.
- D) The DS Licence was issued to NSMY on 18th September 2001 and NSMY will commence a multi level direct sales business on 6th November 2001.

## III. RESTRUCTURE OF NSMH

- A) To fulfill, among others, the equity condition in the DS Approval, NSE is willing to restructure NSMH (as the holding company of NSMY) and to divest, in the manner described in Recitals III(C) to III(E), its right to **70%** (Seventy percent) of its effective equity shareholdings in NSMY to Malaysians, including **40%** (Forty percent) thereof to Bumiputera Malaysians.
- B) NSE has entered into the SPA(FK) and SPA(Nadzmi) to divest to FRANKIE and DATO' NADZMI respectively, its rights to FK's Block and Nadzmi's Block.

- C) NSE is currently in discussions with LEMBAGA TABUNG ANGKATAN TENTERA with a view to its being the Malaysian Bumiputera investor to whom NSE will divest its rights to the 20% Block.
- D) FRANKIE and DATO' NADZMI agree that following NSE's divestment of its rights to the 20% Block to LEMBAGA TABUNG ANGKATAN TENTERA and/or the Other Bumiputera Investors, the respective equity interests of FRANKIE and DATO' NADZMI in the enlarged share capital of NSMH will be diluted accordingly.
- E) As currently envisaged, NSMH's equity restructuring exercise require NSE:-
  - i) to convert 1,999,999 (One Million Nine Hundred Ninety Nine Thousand Nine Hundred and Ninety Nine) ICPS into 1,999,999 (One Million Nine Hundred Ninety Nine Thousand Nine Hundred and Ninety Nine) NSMH Shares;
  - ii) to complete in accordance with the provisions of the SPA(FK) and SPA(Nadzmi), the sale by NSE to FRANKIE and DATO' NADZMI respectively of FK's Block and Nadzmi's Block.
  - iii) following the fulfillment of all of the conditions precedent under the SPA (OBI) for sale of the 20% Black to the Other Bumiputera Investor:-
    - a) to convert the remaining **500,001** (Five Hundred and One) ICPS held by NSE in NSMH into **500,001** (Five Hundred and One) NSMH Shares; and
    - b) to complete in accordance with the provisions of the SPA(OBI), the sale by NSE to the Other Bumiputera Investor of the 20% Block.

## IV. SHAREHOLDERS AGREEMENT

The PARTIES are desirous of:-

- A) regulating the relationship between them as holders of NSMH Shares following the completion of the sale and purchase of NSMH Shares under the SPA(FK) and SPA(Nadzmi); and

B) making provision for the management and operations of NSMH and NSMY and the conduct of NSMH's and NSMY's affairs.

**NOW THEREFORE** in consideration of the mutual agreements herein contained each of the PARTIES **HEREBY AGREES** with the other PARTIES as follows:-

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1. **DEFINITIONS & INTERPRETATION**

1.1. **Definitions**

In this Agreement, unless the context otherwise requires, the following expressions shall have the meanings set forth opposite such expressions:-

"Affiliate"	:	with respect to any specified person, any other person that directly or indirectly, through one or more intermediaries, controls, is controlled by, or under common control with, such specified person
"Annual Business Plan"	:	NSMY's annual business plan as adopted by NSMY for a financial year of NSMY
"Auditors"	:	PricewaterhouseCoopers or such other major international accounting firm as may be appointed by (as applicable) NSMH Members and NSMH from time to time as the auditors of (as applicable) NSMH and NSMY
"Board"	:	the Board of Directors of (as applicable) NSMH and NSMY
"Call Notice"	:	a notice served by NSE pursuant to Clause 7.2
"Call Option"	:	the option granted by each of FRANKIE and DATO' NADZMI to NSE pursuant to Clause 7.1
"Certified Value"	:	the value of a NSMH Share, as valued/calculated and certified by the Valuers (acting as experts and not as arbitrators) using a multiple of <b>5</b> (Five) times of NSMY's net earnings per share (determined in accordance with Generally Accepted Accounting Principles) for the preceding <b>12</b> (Twelve) months
"Cos Act"	:	the Companies Act 1965 and all subsidiary legislation and all amendments thereto in force from time to time
"Dato' Nadzmi"	:	DATO' MOHD NADZMI BIN MOHD SALLEH (NRIC No. 540501-03-5293) of No. 36-1, Jalan PJU8/5B, Perdana Business Centre, Bandar Damansara Perdana, 47820 Petaling Jaya, Selangor Darul Ehsan
"Deductibles"	:	the aggregate of:-  i) any indebtedness then due, owing and/or payable by (as applicable) FRANKIE or DATO' NADZMI to NSE; and ii) the aggregate of such portion of the purchase price payable by (as applicable) FRANKIE or DATO' NADZMI for any NSMH Shares purchased by him from NSE and interest accrued on such portion the right to the payment whereof shall have been waived or forgiven by NSE
"Defaulting Party"	:	the PARTY referred to in Clauses 15.1.1 to 15.1.7
"Director"	:	a director of (as applicable) NSMH and NSMY
"DS Act"	:	Direct Sales Act 1993 and all subsidiary legislation (including the Direct Sales Regulations 1993) and all amendments thereto in force from time to time
"DS' Approval"	:	the approval of MDTCA described in Recital II(C)
"DS Business"	:	multi-level direct sale/marketing business of the Products
"DS Licence"	:	the multi-level direct sales licence No. AJL 931384 issued on 18th September 2001 to NSMY pursuant to the DS Act
"Effective Clauses"	:	Clauses 1, 2, 16.2, 17, 18, 20 and 22 to 33
"Encumbrance"	:	a lien, pledge, charge, mortgage, assignment or other encumbrance or security interest
"Event of Default"	:	any of the events described in Clauses 15.1.1 to 15.1.7
"Financial Year"	:	a financial period of <b>12</b> (Twelve) months ending on 31st December of each calendar year in respect of which the accounts of (as applicable) NSMH and NSMY will be made up and audited
"Fixed Value"	:	in relation to a NSMH Share, whichever shall be the HIGHER of:-

	i)	the Minimum Amount divided by the total number of NSMH Shares held by the proposed transferor; and
	ii)	the remainder of such amount as shall be the LOWER of the following values after deducting the Deductibles from such amount:-
		a) the Certified Value; and
		b) the price offered to the proposed transferor by a bona fide third party purchaser.
<b>"FK's Black"</b>	:	750,000 (Seven Hundred Fifty Thousand) NSMH Shares to be acquired by FRANKIE pursuant to the SPA(FK)
<b>"force majeure" or "vis major"</b>	:	acts of God, strikes, lockout, war, blockades, revolutions, fire, riots, insurrections, civil commotions, lightning, fire, storm, floods, earthquakes, explosions, embargoes, government restraint or regulation and any other cause whether of the kind specifically hereinbefore referred to or otherwise which is not reasonably within the control of the PARTY thereby affected
<b>"FRANKIE"</b>	:	KIOW KIM YOON, FRANKIE (NRIC No. 570723-08-6077) (former NRIC No. 5276427) of 27, Jalan Keruing, Kebun-Teh Park, Johor Baru, Johor
<b>"ICPS"</b>	:	an irredeemable convertible non voting preference share having a par value of RM1.00 (Ringgit One) in NSMH
<b>"Inter-co Agreement"</b>	:	an agreement, arrangement and/or transaction entered into by (as applicable) NSMH or NSMY with NSE and/or its Affiliates, including but not limited to the agreements referred to in Clause 13.11.2 and all amendments and modifications thereto as may be agreed upon in writing between the parties to such agreement, arrangement or transaction
<b>"Key Issue (Board)"</b>	:	any of the matters described in Clause 9.5
<b>"Key Issue (Members)"</b>	:	any of the matters described in Clause 11
<b>"laws"</b>	:	statutes, ordinances, enactments, by-laws, rules, regulation, regulatory requirements, directives, policies guidelines, orders, instruments and the like of government, semi or quasi governmental department, agency committed or body and the like whether or not having the force of law
<b>"M&amp;A"</b>	:	(as applicable) NSMH's and NSMY's Memorandum and Articles of Association
<b>"MD"</b>	:	the managing director of (as applicable) NSMH and NSMY from time to time
<b>"MDTCA"</b>	:	MINISTRY OF DOMESTIC TRADE & CONSUMER AFFAIRS, Malaysia
<b>"MDTCA Approval"</b>	:	the approval of MDTCA to the sale and purchase of direct and indirect equity interest in NSMY
<b>"Minimum Amount"</b>	:	the total of the average price paid/payable by (as applicable) FRANKIE or DATO' NADZMI for each NSMH Share acquired by them from NSE multiplied by the total NSMH Shares then held by (as applicable) FRANKIE or DATO' NADZMI LESS the Deductibles
<b>"Nadzmi's Block"</b>	:	500,001 (Five Hundred and One) NSMH Shares to be acquired by DATO' NADZMI pursuant to the SPA(Nadzmi)
<b>"Non-Defaulter"</b>	:	a PARTY who is not the Defaulting Party
<b>"NSE"</b>	:	NU SKIN ENTERPRISES, INC. above described and includes its Affiliates
<b>"NSI"</b>	:	NU SKIN INTERNATIONAL, INC., a company incorporated in the State of Delaware, United States of America and having its principal place of business at 75 West Center Street, Provo, Utah 84601, United States of America
<b>"NSI Confidential Information"</b>	:	any and all information that is unique, proprietary or competitively sensitive to the business of NSI and/or any Affiliate of NSI which NSMY may obtained knowledge of or access to in connection with its relationship with NSI and its Affiliates and the transactions contemplated by the Inter-co Agreements, including, but not limited to, information relating to the Products, the NSI Independent Distributors, NSI's compensation or commission systems or schemes, pricing methods, historical, current and projected financial information, marketing information, and any and all information, technical data and know how related to any aspect of NSI's or any of its Affiliates' business or technology including data, know how, formulae, designs, drawings, proposals, specifications, and the terms of the Inter-co Agreements
<b>"NSI Independent Distributor"</b>	:	a person authorised by contract with NSI to distribute, as an independent contractor, the Products in accordance with the terms of such distributor contract
<b>"NSMY"</b>	:	NU SKIN (MALAYSIA) SDN. BHD. (Company No. 402787-V), a company incorporated in Malaysia under the Companies Act 1965 and having its registered address at c/o 6th Floor, Menara Boustead, No. 69, Jalan Raja Chulan, 50200 Kuala Lumpur
<b>"NSMY Confidential"</b>	:	any and all information that is unique, proprietary or competitively sensitive to the business of NSMY

<b>Information"</b>	:	but specifically excluding the NSI Confidential Information
<b>"NSMH"</b>	:	NU SKIN MALAYSIA HOLDINGS SDN. BHD. (Company No. 552189-P), a company incorporated in Malaysia under the Companies Act 1965 and having its registered address at c/o 6th Floor, Menara Boustead, No. 69, Jalan Raja Chulan, 50200 Kuala Lumpur
<b>"NSMH Member"</b>	:	a holder of NSMH Shares registered in NSMH's Register of Members
<b>"NSMH Share"</b>	:	an ordinary share having a par value of RM1.00 (Ringgit One) in NSMH
<b>"NSMY Share"</b>	:	an ordinary share having a par value of RM 1.00 (Ringgit One) in NSMY
<b>"Offer"</b>	:	an offer to sell the Subject Shares made pursuant to Clause 6.3
<b>"Offeree"</b>	:	the NSMH Member to whom the Offer is made
<b>"Offeror"</b>	:	the NSMH Member whose NSMH Shares are subject to an Offer
<b>"Offer Period"</b>	:	30 (Thirty) days from the Offeree's receipt of the Offer in writing
<b>"Other Bumiputera Investor"</b>	:	such prospective Malaysian Bumiputera investor(s) (other than Dato' Nadzmi) as is identified by and as is acceptable to the VENDOR to acquire the 20% Block
<b>"PARTIES"</b>	:	NSE, FRANKIE and DATO NADZMI and includes any person, firm or company who delivers a Shareholder's Undertaking
<b>"PARTY"</b>	:	any of the Parties
<b>"Products"</b>	:	such products bearing trade marks or trade names belonging to NSI or NSE and/or its Affiliates (whether manufactured and/or sourced by or on behalf of NSI or NSE and/or its Affiliates) as are made available for sale by NSE's Affiliate, NU SKIN ENTERPRISES HONG KONG, INC. with NSI's or NSE's consent pursuant to the Distribution Agreement referred to in Clause 13.11.2(iii)
<b>"Related Co"</b>	:	a related company within the meaning assigned to such expression by Section 6 of the Cos Act
<b>"Ringgit and "RM"</b>	:	the lawful currency of Malaysia
<b>"Said Business"</b>	:	the business of multi-level direct selling/ marketing of the Products in Malaysia
<b>"Shareholder's Undertakings"</b>	:	the undertakings substantially in the terms set forth in "Annexure 1"
<b>"Shareholding Proportions"</b>	:	the respective proportions (including those set forth in Clause 4.3) in which NSMH's total issued capital for the time being is held by the PARTIES from time to time
<b>"SPA (FK)"</b>	:	the sale and purchase agreement for the sale by NSE and the purchase by FRANKIE of FK's Block and includes such variations and modifications thereto as may be agreed upon in writing between the parties thereto
<b>"SPA (Nadzmi)"</b>	:	the sale and purchase agreement for the sale by NSE and the purchase by DATO' NADZMI of Nadzmi's Block and includes such variations and modifications thereto as may be agreed upon in writing between the parties thereto
<b>"SPA (OBI)"</b>	:	the sale and purchase agreement for the sale by NSE and the purchase by the Other Bumiputera Investor of the 20% Block and includes such variations and modifications thereto as may be agreed upon in writing between the parties thereto
<b>"Subject Shares"</b>	:	NSMH Shares subject of an Offer
<b>"Subsidiary"</b>	:	a subsidiary within the meaning assigned to such expression by Section 5 of the Cos Act
<b>"20% Block"</b>	:	<b>500,001</b> (Five Hundred Thousand and One) NSMH Shares or such other number of Ordinary NSMH Shares as is equivalent to <b>20%</b> (Twenty Percent) of NSMH's enlarged issued share capital following the shares conversion referred to in Recital III(E)(iii)(a)
<b>"3rd Party Purchaser"</b>	:	a person, firm or company who:- <ul style="list-style-type: none"> <li>i) is not a PARTY and who agrees to purchase or to subscribe for NSMH Shares; and</li> <li>ii) agrees to deliver Shareholder's Undertaking to and is consented to (such consent not to be unreasonably withheld) by such of the PARTIES as shall remain NSMH Members subsequent to the aforesaid person's, firm's or company's purchase of or subscription for NSMH Shares</li> </ul>

**"Valuers"** : such international accounting firm (but excluding the Auditors unless otherwise agreed between the Offeror and Offeree) as may be agreed upon between the Offeror and Offeree or, failing agreement, an international accounting firm (not being the auditor or accountant of either the Offeror or the Offeree) as may be recommended by the Auditors

**"VALUERS' Certificate"** : the certificate of the Valuers as to the Certified Value issued pursuant to Clause 6.4

## 1.2 Interpretation

- 1.2.1 The Annexures hereto shall be taken, read and construed as essential parts of this Agreement. The headings in this Agreement are inserted for convenience of reference only and shall not be taken, read and construed as essential parts of this Agreement.
- 1.2.2 All references to Annexures, Recitals and Clauses are to be construed as references to the annexures, recitals and clauses of this Agreement. All references to provisions of statutes include such provisions as modified, re-certified or re-enacted. All references to this Agreement include this Agreement as amended or modified from time to time by written agreement between the Parties. All references to a natural person shall include such person's heirs, personal representatives, successors-in-title and permitted assigns. All references to a company shall include such company's successors-in-title and permitted assigns.
- 1.2.3 Except where the context otherwise requires, words applicable to natural persons include any body of persons, company, corporation, firm or partnership corporate or incorporate and vice versa; words importing the masculine gender shall include the feminine and neuter genders and vice versa; words importing the singular number shall include the plural number and vice versa.
- 1.2.4 Where two or more persons or parties are included or comprised in any expression, agreements, covenants, terms, stipulations and undertakings expressed to be made by or on the part of such persons shall, unless otherwise provided herein, be deemed to be made by and be binding upon such persons jointly and severally.
- 1.2.5 In computing time for the purposes of this Agreement, unless the contrary intention appears, a period of days from the happening of an event or the doing of any act or thing shall be deemed to be exclusive of the day on which the event happens or the act or thing is done and if the last day of the period is a weekly or public holiday, the period shall include the next following day which is not a weekly or public holiday.

## 2. CONDITIONAL AGREEMENT

### 2.1 Conditions Precedent

The provisions of this Agreement (save for the Effective Clauses) are conditional upon:-

- 2.1.1 the completion under and in accordance with the provisions of the SPA(FK) of the sale and purchase of FK's Block and the entry in NSMH's Register of Members of FRANKIE as the holder of FK's Block; and
- 2.1.2 the completion under and in accordance with the provisions of the SPA(Nadzmi) of the sale and purchase of Nadzmi's Block and the entry in NSMH's Register of Members of DATO' NADZMI as the holder of Nadzmi's 1st Block.

### 2.2 Non-fulfillment of Condition Precedent

If the SPA(FK) and/or the SPA(Nadzmi) are/is terminated in accordance with the provisions of (as applicable) SPA(FK) or SPA(Nadzmi), this Agreement shall be deemed to be of no further effect and the respective obligations of the PARTIES hereunder shall wholly cease and no PARTY shall have any claim hereunder against any other PARTY save and except in respect of any antecedent breach of the Effective Clauses.

## 3. OBJECTIVES, NSMH's & NSMY's M&A AND NSMH's & NSMY's Name

### 3.1 Objectives

- 3.1.1 Unless otherwise agreed upon in writing between the PARTIES:-
- i) NSMH shall continue to carry on business as an investment holding company; and
  - ii) NSMY shall carry on business as a multi-level direct selling/ marketing company selling, marketing, distributing and supplying the Products in Malaysia only.
- 3.1.2 The PARTIES shall cause NSMY to use its best endeavours to promote, sell, market, distribute and supply the Products in Malaysia.
- 3.1.3 Each of the PARTIES shall provide and render to NSMH and NSMY all such support and assistance as may be necessary

and as such PARTY shall be capable of providing. Save in respect of the charges, licence fees and/or royalty payable by NSMY under the Inter-co Agreements, no charges shall be payable by NSMH and/or NSMY for the support and assistance rendered by such PARTIES unless such charges shall have been agreed upon in advance in writing between the PARTIES and also by (as applicable) NSMH and NSMY.

To enable the PARTIES and (as applicable) NSMH and NSMY to evaluate any proposed charges, the PARTY providing the support or assistance shall furnish to the other PARTIES and (as applicable) NSMH and NSMY, full details of the relevant support and assistance and its cost relating thereto.

- 3.1.4 Without derogating from its obligations under Clause 3.1.3, DATO' NADZMI shall use his best endeavours to assist NSMY inter alia in liaising and dealing with MDTCA on all matters relating to the DS Licence (including the renewal of such licence) and with all governmental and quasi-governmental authorities and bodies in Malaysia.

### **3.2 M&A of NSMH & NSMY**

- 3.2.1 The PARTIES shall cause NSMH and NSMY to adopt memorandum and articles of association which reflect the provisions of this Agreement. In the event of a conflict between the provisions of this Agreement and the provisions of the M&A of (as applicable) NSMH or NSMY, the provisions of this Agreement shall prevail and the PARTIES shall cause (as applicable) NSMH or NSMY to alter, with all due speed, the M&A of (as applicable) NSMH or NSMY so as to remove the conflict.

### **3.2 NSMH's & NSMY's Name**

- 3.2.1 The PARTIES acknowledge that NSI and/or its Related Co is the proprietor of the name "NU SKIN". Accordingly, NSE (being a Related Co to NSI) shall be entitled, by written notice to (as applicable) NSMH or NSMY, to require the exclusion of the name "NU SKIN" from (as applicable) NSMH's or NSMY's corporate name if NSE ceases to hold any NSMH Shares (whether directly or indirectly).
- 3.2.2 Upon the receipt by (as applicable) NSMH or NSMY of the written notice referred to in Clause 3.3.1, the PARTIES or such of them as continue to be members of NSMH shall cause (as applicable) NSMH or NSMY:-
- i) promptly to do all acts and things to change its corporate name so as to exclude the name "NU SKIN" from (as applicable) NSMH's or NSMY's name; and
  - ii) to cease thereafter (save as required by statute as to the use by (as applicable) NSMH or NSMY of its former name for such time as may be statutorily specified) to use in any manner whatsoever, the name "NU SKIN" as (as applicable) NSMH's or NSMY's corporate name.

## **4. SHARE CAPITAL OF NSMH & NSMY**

### **4.1 Authorised Capital**

Subject to Clause 4.4:-

- 4.1.1 the authorised share capital of NSMH shall be **RM5,000,000.00** (Ringgit Five Million) divided into divided into **2,500,000** (Two Million and Five Hundred Thousand) NSMH Shares and **2,500,000** (Two Million and Five Hundred Thousand) ICPS; and
- 4.1.2 the authorised share capital of NSMY shall be **RM5,000,000.00** (Ringgit Five Million) divided into divided into **5,000,000** (Five Million) NSMY Shares.

### **4.2 Issued and Paid Up Capital**

Subject to Clause 4.4:-

- 4.2.1 the initial issued and paid up share capital of NSMH [following completion of the SPA(FK) and the SPA(Nadzmi)] shall be **RM2,500,000.00** (Ringgit Two Million and Five Hundred Thousand) divided into **500,001** (Five Hundred Thousand and One) ICPS and **2,000,001** (Two Million and One) NSMH Shares;
- 4.2.2 the issued and paid up share capital of NSMH following completion of the SPA(OBI) shall be **RM2,500,002.00** (Ringgit Two Million Five Hundred Thousand and Two) divided into **2,500,002** (Two Million Five Hundred Thousand and Two) NSMH Shares; and
- 4.2.3 unless required by the DS Act or the DS Guidelines, the issued and paid up share capital of NSMY shall be **RM2,500,002.00** (Ringgit Two Million Five Hundred Thousand and Two) divided into **2,500,002** (Two Million Five Hundred Thousand and Two) NSMY Shares.

### **4.3 Shareholding Proportions**

- 4.3.1 Subject to Clause 4.4, the issued share capital of NSMH following completion of the SPA(FK) and the SPA(Nadzmi) shall be held by the PARTIES in the amounts and proportions set forth in columns (2) and (3) below opposite the respective names of the PARTIES set forth in column (1) below:-



	(1) Name of PARTY	(2) Number of NSMH Shares	(3) Percentage
i)	NSE	750,000	37.5%
ii)	FRANKIE	750,000	25.0%
iii)	DATO' NADZMI	500,001	37.5%
	TOTAL	<u>2,000,001</u>	<u>100.0%</u>

4.3.2 Subject to Clause 4.4, the issued share capital of NSMH following completion of the SPA(OBI) shall be held by the PARTIES in the amounts and proportions set forth in columns (2) and (3) below opposite the respective names of the PARTIES set forth in column (1) below:-

	(1) Name of PARTY	(2) Number of NSMH Shares	(3) Percentage
i)	NSE	750,000	30.0%
ii)	FRANKIE	750,000	30.0%
iii)	DATO' NADZMI	500,001	20.0%
iv)	Other Bumiputera Investor	500,001	20.0%
	TOTAL	<u>2,500,002</u>	<u>100.0%</u>

4.3.3 Unless the PARTIES otherwise agrees in writing or pursuant to the provisions of this Agreement, all of the issued share capital of NSMY from time to time shall be held by NSMH.

#### 4.4 Increases of authorised & issued capital

4.4.1 for the purposes of completion of the SPA(OBI), each of FRANKIE and DATO' NADZMI hereby acknowledges and agrees, to the following and undertakes to use his best endeavours to cause NSMH and NSMY to effect the same:-

- i) the conversion by NSE of 500,001 (Five Hundred Thousand and One) ICPS held by it into 500,001 (Five Hundred Thousand and One) NSMH Shares; and
- ii) upon such conversion the issue at NSE's request made of NSMH directly to the Other Bumiputera Investor of **500,001** (Five Hundred Thousand and One) NSMH Shares constituting the 20% Block.

4.4.2 Any increases of the authorised or issued and paid-up capital of NSMH and/or NSMY in addition to the current (as applicable) authorised or issued and paid up capital referred to in (as applicable) Clause 4.1 or 4.2 or 4.4.1 shall only be made in accordance with the provisions of Clause 11.1.

### 5. ISSUE OF NSMH SHARES

#### 5.1 Offers of NSMH Shares

5.1.1 Each of FRANKIE and DATO' NADZMI:-

- i) confirm and acknowledges his awareness that, in view of the equity restrictions imposed by the MDTCA under the DS Guidelines on foreign participation, NSE is willing to limit, for the time being, its equity shareholding in NSMH at **30%** (Thirty Percent);
- ii) agrees that if foreign equity participation in NSMH/NSMY exceeding **30%** (Thirty Percent) is permitted by the MDTCA, NSE shall be entitled to subscribe for such number of additional NSMH Shares at the Certified Value as will, together with NSMH Shares then held by NSE, not exceed the maximum foreign equity shareholding permitted in NSMH; and
- iii) undertakes to cause NSMH to allot and issue such additional NSMH Shares to NSE for cash payable upon allotment.

5.1.2 Subject to Clause 4.4.1 and 5.1.1, NSMH shall not issue any unissued NSMH Shares or any new NSMH Shares from time to time created in the capital of NSMH (in accordance with the provisions of this Agreement) without first offering the new NSMH Shares to NSMH Members in proportion to their Shareholding Proportions.

5.1.3 Unless the PARTIES otherwise agree in writing (including the terms of issue therefor), NSMY shall not issue any unissued NSMY Shares or any new NSMY Shares from time to time created in the capital of NSMY (in accordance with the provisions of this Agreement) other than to NSMH.

#### 5.2 Offer of unsubscribed shares

Notwithstanding the provisions of Clauses 4.4.2, 5.1.1 and 5.1.2, if any NSMH Member fails to subscribe and pay in full for any of the NSMH Shares offered to it on or before the date specified by NSMH's Board for such subscription and payment, NSMH's Board shall be at liberty to offer the unsubscribed or unpaid NSMH Shares to the other NSMH Member (or, if there is more than **1** (One) NSMH Member, in

the proportions which the NSMH Shares then held by these other NSMH Members bear to each other) for acceptance within such time as may be stipulated by NSMH's Board.

## **6. RESTRICTIONS ON DEALINGS WITH NSMH SHARES**

### **6.1 Restrictions on transfers & Encumbrances**

- 6.1.1 NSE shall be entitled (without any approval or consent of the other PARTIES):-
- i) to sell, transfer, assign or dispose its NSMH Shares to any party subject to its delivery of Shareholder's Undertaking so long as NSE's and its Affiliate's total equity interests direct and indirect in NSMH subsequent to such sale, transfer, assignment or disposal will not be less than **10%** (Ten Percent) of NSMH's total issued share capital; and
  - ii) to create Encumbrances in any manner whatsoever over the NSMH Shares held by it in favour of any party.
- 6.1.2 Each of FRANKIE and DATO' NADZMI shall be entitled (without the approval or consent of, as applicable, DATO' NADZMI or FRANKIE):-
- i) to sell whether pursuant to the Call Option or otherwise, NSMH Shares to NSE or its Affiliates or a party nominated by NSE; and
  - ii) to create in favour of NSE or its Affiliates, Encumbrances over the NSMH Shares held by him.
- 6.1.3 Save as provided in Clauses 6.1.1 and 6.1.2, no PARTY shall directly or indirectly, sell, transfer, assign, dispose of or create any Encumbrance over its NSMH Shares except in accordance with Clauses 6.2 to 6.10:-
- i) with the prior written consent of the other PARTIES; or
  - ii) in accordance with the provisions of this Clause 6.
- 6.1.4 For the purposes of Clause 6.1.3, a change in the control (whether at board/management or at shareholders level) of a NSMH Member being a body corporate shall be deemed to be a sale or transfer of such NSMH Member's NSMH Shares.
- 6.1.5 Notwithstanding the provisions thereof, the provisions of Clause 6.1.4 shall not apply to NSE or any Affiliate of NSE or a transferee of NSMH Shares transferred by NSE or its Affiliate.

### **6.2 Right of First Offer**

- 6.2.1 A NSMH Member other than NSE who wishes to sell, transfer, assign or otherwise dispose of its NSMH Shares shall first make an offer in writing to sell such NSMH Shares to NSE at a price not exceeding the Fixed Value.
- 6.2.2 Such offer shall remain open for acceptance for at least **30** (Thirty) days from the date of NSE's receipt of the written offer and NSE shall be entitled to nominate its Affiliate and/or third party/parties to acquire the NSMH Shares from such NSMH Member as shall be the offeror.

### **6.3 Subsequent Offer**

Subject to Clauses 6.1.1, 6.1.2 and 6.2, a NSMH Member who wishes to sell, transfer, assign or otherwise dispose of its NSMH Shares shall first make simultaneous offers in writing to sell the Subject Shares to the other NSMH Member(s) (including NSE) (and if there are more than **1** (One) other NSMH Member, in the proportions in which the NSMH Shares held by them bear to each other as at the date of the Offer).

The price payable for the NSMH Shares shall be agreed upon between the Offeror and the Offeree concerned within a period of 30 (Thirty) days from the Offeree's receipt of the Offer or, failing agreement, the Fixed Value of the NSMH Shares if it is acceptable to the Offeror. If the Fixed Value is not acceptable to the Offeror, the Offeree shall have the right to terminate any Offer or agreement constituted by the Offer as set forth below and elect to continue to hold the NSMH Shares rather than to sell the NSMH Shares.

Each Offer shall be deemed to be made upon terms that the Offeror shall be entitled:-

- 6.3.1 to revoke (in accordance with Clause 6.4) an Offer remaining unaccepted or (if applicable) to terminate the agreement constituted by the Offer and any acceptance thereof if the Fixed Value of the Subject Shares comprised in any of the simultaneous Offers is unacceptable to the Offeror who so notifies an Offeree pursuant to Clause 6.4; and
- 6.3.2 to terminate, pursuant to Clauses 6.6 and 6.7, the agreement constituted by the Offer and the acceptance thereof if all of the Subject Shares comprised in the simultaneous Offers made are not sold as a result of:-
- i) the non-acceptance of any Offer;
  - ii) if applicable, the absence of MDTCA's Approval required for the sale of the Subject Shares accepted by an Offeree; or
  - iii) the Offeree's failure to complete its purchase of the Subject Shares concerned.

An Offeror who revokes an Offer or terminates an agreement constituted by an Offer and any acceptance thereof pursuant to (as

applicable) Clauses 6.4, 6.6 or 6.7) shall continue to hold the NSMH Shares comprised in such Offer and may not sell them unless he/it first offers them to the other NSMH Members.

#### **6.4 Valuation**

- 6.4.1 If the Offeror and the Offeree fail to agree within a period of **30** (Thirty) days from the Offeree's receipt of the Offer on a mutually acceptable price for the Subject Shares they shall appoint the Valuers to determine and certify the Certified Value of the Subject Shares as at the date of the Offer and to issue the Valuer's Certificate to the Offeror and the Offeree concerned.
- 6.4.2 The cost and expense of a valuation of the Subject Shares shall be borne by the Offeror and the Offeree in equal shares.
- 6.4.3 If the Certified Value is not acceptable to the Offeror, the Offeror shall be entitled, by written notice to such effect served upon the Offeree(s) concerned within **7** (Seven) days from the Offeror's receipt of the Valuer's Certificate:-
- i) to revoke all or any Offers then remaining unaccepted; and
  - ii) to terminate all or any of the agreements constituted by an Offer and an acceptance of it.

#### **6.5 Acceptance of Offer**

- 6.5.1 An acceptance of an Offer (which has not been revoked pursuant to Clause 6.4) shall be in writing served on the Offeror within **30** (Thirty) days from the date of the Offeree's receipt of (as applicable):-
- i) the Offer if the price for the Subject Shares is mutually agreed upon; or
  - ii) the Valuer's Certificate as to the Certified Value of the Subject Shares concerned.
- 6.5.2 In the absence of an acceptance served as aforesaid by the Offeree concerned, the Offer made to such Offeree shall be deemed to be rejected by such Offeree.
- 6.5.3 An acceptance shall relate to ALL (and not some only) of the Subject Shares comprised in the Offer and shall be made or deemed to be made subject to the grant of, if applicable, MTDCA's Approval to the sale by the Offeror of the NSMH Shares accepted.

#### **6.6 Partial acceptances & further offers**

- 6.6.1 If any of the Subject Shares comprised in the simultaneous Offers (available for acceptance) are NOT accepted pursuant to Clause 6.5, the Offeror shall make simultaneous offers to sell such Subject Shares to the Offeree(s) who shall have accepted the Offers made to them (and, if there are more than **1** (One) of such Offerees, in the proportions which the nominal value of the NSMH Shares held by them bear to each other) and at the same price per Subject Share as that applicable to the Subject Shares already accepted by the Offeree concerned.
- 6.6.2 An acceptance of an offer made pursuant to this Clause 6.6 shall be in writing and served on the Offeror within **14** (Fourteen) days from the Offeree's receipt of such offer. In the absence of an acceptance served as aforesaid by the Offeree concerned, the offer made to such Offeree shall be deemed to be rejected by such Offeree.
- 6.6.3 If any of the Subject Shares comprised in the simultaneous Offers (available for acceptance) remain unsold following upon offers made pursuant to this Clause 6.6, further offers of such Subject Shares shall be made in accordance with this Clause 6.6 by the Offeror to such Offerees as shall have accepted the offers made pursuant to this Clause 6.6.
- 6.6.4 If any Subject Shares remain unsold following upon such further offers, the Offeror shall be entitled, at its option, by notice served on all the Offerees within **14** (Fourteen) days from the date of the Offeror's receipt of the last of the notices served by the Offerees pursuant to this Clause 6.6:-
- i) to terminate the agreements for the sale and purchase of such of the Subject Shares as are accepted AND to continue to hold all or any of the Subject Shares held by the Offeror; or
  - ii) to proceed with the sale of the Subject Shares as are accepted AND to continue to hold all or any of the Subject Shares which were not accepted.

#### **6.7 Completion by PARTIES concerned**

- 6.7.1 Subject to the grant of the MDTCA's Approval therefor and any termination by the Offeror pursuant to Clauses 6.4 or 6.6 of the sale and purchase agreements for the Subject Shares sold, the sale and transfer of such of the NSMH Shares as are accepted (whether upon Offers made pursuant to Clause 6.3 or further offers made pursuant to Clause 6.6) shall be completed simultaneously at NSMH's registered office (or such other place at the Offeror and Offeree may agree in writing).

Completion shall take place upon the expiry of whichever is applicable of the following periods each commencing from the date of the Offeror's receipt of the notices of acceptance (or the last of them) served pursuant to (as applicable) Clauses 6.5 or 6.6:-

- i) if no MTDCA's Approval is required, a period of **30** (Thirty) days; or
- ii) if MTDCA's Approval is required by the Offeror, a period of **90** (Ninety) days.

6.7.2 If the sale and transfer of any of the Subject Shares are not completed as a result of the absence of MTDCA's Approval, the Offeror shall be entitled at its option by notice served on all Offerees:-

- i) to terminate the agreements for the sale and purchase of such of the Subject Shares comprised in Offers as are accepted and capable of being completed  
AND  
to continue to hold, all or any of the NSMH Shares held by the Offeror; or
- ii) to proceed to complete the sale of the Subject Shares as are capable of being completed  
AND  
to continue to hold, all or any of the Subject Shares the sale and purchase whereof cannot be completed.

## **6.8 Completion by NSMH as agent of Offeror**

If an Offeror (being bound to do so) fails to complete the sale of such Offeror's NSMH Shares in accordance with the provisions of Clause 6.7, the following provisions shall apply:-

6.8.1 the PARTY (who is the Offeror) hereby irrevocably authorises any of NSMH Directors (or a person nominated by NSMH Directors) as the agent of the Offeror:-

- i) to execute a transfer of the Offeror's NSMH Shares to the NSMH Member's who shall have agreed to purchase the same; and
- ii) to give a good receipt for the sale price of the NSMH Shares so transferred;

6.8.2 subject to the payment by the transferee to NSMH of (as applicable) the agreed price or the Fixed Value for the NSMH Shares transferred, NSMH shall have the right:-

- i) to register the transferee as the holder of such NSMH Shares;
- ii) to cancel the share certificate under which the same were held by the Offeror; and
- iii) to issue to the transferee, new share certificates therefor whereupon such transferee shall become in defeasibly entitled thereto;

6.8.3 NSMH shall forthwith pay the monies received by NSMH into a separate bank account held in NSMH's name and (subject to any lien then existing in favour of NSMH) shall hold such monies in trust for the Offeror; and

6.8.4 the Offeror shall be entitled to be paid the said monies by NSMH only upon the delivery by the Offeror to NSMH of the certificate under which NSMH Shares sold were formerly held by the Offeror.

## **6.9 New Offer**

A NSMH Member who fails to sell, transfer or otherwise dispose of such NSMH Member's NSMH Shares pursuant to Clauses 6.3 to 6.7 or Clause 6.10.2 must make another Offer to sell the same in accordance with Clauses 6.2 to 6.7 prior to selling such NSMH Shares to any 3rd Party Purchaser.

## **6.10 Sale to 3rd Party Purchaser**

Any sale of Subject Shares to a 3rd Party Purchaser pursuant to Clause 6.9 shall be:-

6.10.1 at a price which is not less than the highest price per Subject Share payable to the Offeror by an Offeree who has served a notice of acceptance pursuant to Clause 6.5;

6.10.2 pursuant to a binding agreement for such sale made no later than **90** (Ninety) days from the date on which the last of the Offers shall be made pursuant to Clause 6.6;

6.10.3 subject to the delivery by the 3rd Party Purchaser to such of the PARTIES as will continue to be NSMH Members of Shareholder's Undertaking and if such 3rd Party Purchaser is a company, satisfactory evidence that it is duly authorised to enter into such agreement; and

6.10.4 subject to the provisions of Clauses 6.3.2(ii) and 6.3.2(iii).

## **7. CALL OPTION OVER NSMH SHARES HELD BY PARTIES OTHER THAN NSE**

### **7.1 Grant of Call Option**

In consideration of NSE entering or having entered into this Agreement at inter alia the request of FRANKIE and DATO' NADZMI, each of FRANKIE and DATO' NADZMI hereby grants to NSE and NSE shall have an option to require (as applicable) FRANKIE and DATO' NADZMI to sell to NSE, its Affiliate or a party nominated by NSE, at any time, all or any part of the NSMH Shares held by (as applicable) FRANKIE and DATO' NADZMI from time to time upon the terms and subject to the conditions contained herein.

**Exercise of Call Option**

- 7.2.1 The Call Option shall be exercisable by NSE by written notice (substantially in the form annexed to this Agreement and marked "**Annexure 2**") served on (as applicable) FRANKIE or DATO' NADZMI at any time following the occurrence of any of the following events:-
- i) where a PARTY is an individual, such PARTY dies, becomes of unsound mind or is incapacitated; or
  - ii) where such PARTY is a body corporate, a change in the control (whether at management or at shareholdings level) of such body corporate; or
  - iii) an Event of Default; or
  - iv) a PARTY commits a material criminal act or any other act which creates, in the opinion of NSMH's Board, negative publicity or badwill for NSMH or NSMY; or
  - v) NSMY fails to obtain a renewal of the validity period of the DS Licence or its DS Licence is revoked, suspended or cancelled for any reason whatsoever or NSMY's ability to conduct its business in accordance with NSE's global marketing practices is materially and adversely affected by a change of applicable laws; or
  - vi) NSMH or NSMY fail to agree with NSE or its Affiliate upon any terms of the contractual relationships (including those under Inter-co Agreements) between them; or
  - vii) the PARTIES are at a deadlock (as described in Clause 10.4); or
  - viii) (as applicable) FRANKIE or DATO' NADZMI is unable, in all good faith, to agree to the terms of the new Shareholders Agreement referred to in Clause 16.4.
- 7.2.2 Each NSMH Share sold by (as applicable) FRANKIE or DATO' NADZMI pursuant to Clause 7 shall be sold by him:-
- i) at the LOWER of the following 2 (Two) prices:-
    - a) a price equivalent to the Certified Value thereof established by the Valuers who shall be requested by the PARTIES concerned (namely NSE and, as applicable, FRANKIE and/or DATO' NADZMI) to establish and certify (at the cost of such PARTIES) with all due speed following the exercise by NSE of the Call Option, the Certified Value of the NSMH Shares; and
    - b) the Minimum Amount divided by the total number of NSMH Shares held by (as applicable) FRANKIE or DATO' NADZMI;
  - ii) if applicable, subject to the grant of MTDCA's Approval for the sale of NSMH Shares; and
  - iii) free from all Encumbrances and with all dividends and other distributions paid or distributed in respect thereof subsequent to completion of the sale and purchase of such NSMH Shares.
- 7.2.3 The cost and expense of a valuation of NSMH Shares under Clause 7.2.2 shall be borne by the parties concerned in equal shares.
- 7.2.4 Failure by NSE to exercise the Call Option following the occurrence of a Deadlock shall not prevent NSE from exercising the Call Option following the occurrence of a subsequent deadlock (as described in Clause 10.4).
- 7.2.5 All pre-emptive rights held by all other PARTIES pursuant to this Agreement in respect of NSMH Shares comprised in the Call Notice shall be deemed to be waived and such PARTIES shall, upon request by NSE, confirm such waiver in writing to NSMH and/or such party as NSE nominates.
- 7.2.6 Notwithstanding the provisions of Clause 6, none of the restrictions therein set forth shall be applicable to the sale to NSE pursuant to Clause 7.1 of NSMH Shares held by (as applicable) FRANKIE or DATO' NADZMI.

**7.3 Date for completion**

Subject to the grant of MTDCA's Approval within **90** (Ninety) days from the date of the Call Notice, completion of the purchase by NSE of the NSMH Shares comprised in the Call Notice shall take place (unless the PARTIES thereto otherwise agree in writing) at 12:00 noon on the **14th** (Fourteenth) day following whichever is the later of:-

- 7.3.1 the receipt by both NSE and (as applicable) FRANKIE and/or DATO' NADZMI of the Valuers' Certificate of the Certified Value of such NSMH Shares; and
- 7.3.2 the receipt by NSE of MTDCA's Approval.

**7.4 Completion**

Upon completion of the sale by (as applicable) FRANKIE and/or DATO' NADZMI and the purchase by NSE of the NSMH Shares held by (as applicable) FRANKIE or DATO' NADZMI:-

- 7.4.1 NSE shall pay to (as applicable) FRANKIE and/or DATO' NADZMI (by such mode of payment as NSE stipulates), the price

for the NSMH Shares; and

7.4.2 (as applicable) FRANKIE and/or DATO' NADZMI shall deliver to NSE:-

- i) the share certificates to and unstamped forms of transfer (duly executed by (as applicable) FRANKIE or DATO' NADZMI as transferor) of the NSMH Shares; and
- ii) if applicable, letters of the resignation as director(s) of NSMH and NSMY signed by (as applicable) FRANKIE and/or DATO' NADZMI and his representatives/nominees on NSMH's Board.

## **8. BOARD OF DIRECTORS**

### **8.1 Nominations**

8.1.1 There shall be no fewer than **6** (Six) and no more than **12** (Twelve) (as applicable) Directors of each of NSMH and NSMY. The initial number of Directors of NSMH and NSMY shall be **7** (Seven). The number of Directors may not be increased without NSE's prior written approval.

8.1.2 Subject to applicable laws, the Board of each of NSMH and NSMY shall be constituted as nearly as may be possible, by persons appointed in accordance with this Agreement by the PARTIES (or, if applicable, their respective Subsidiaries or Related Cos) in the Shareholding Proportions.

8.1.3 Each NSMH Member shall be entitled to appoint **1** (One) NSMH Director and **1** (One) NSMY Director so long as such NSMH Member holds (whether by itself or, in the case of NSE, through, as applicable, its Affiliate) not less than **15%** (Fifteen Percent) of the total issued capital of NSMH from time to time.

8.1.4 So long as the relevant PARTIES hold the total issued capital of NSMH in the Shareholding Proportions stated in Clause 4.3 in accordance with this Agreement:-

- i) 2 (Two) NSMH Directors and 2 (Two) NSMY Directors shall be appointed by NSE;
- ii) 2 (Two) NSMH Directors and 2 (Two) NSMY Directors shall be appointed by FRANKIE;
- iii) 1 (One) NSMH Director and 1 (One) NSMY Director shall be appointed by DATO' NADZMI; and
- iv) such other persons as the PARTIES may agree upon may be appointed as additional NSMH Directors or NSMY Directors by (as applicable) NSMH's Board or NSMY's Board.

8.1.5 The non-executive Chairman of NSMY's Board shall be such NSMY Director as shall be nominated and selected by NSE (for approval by NSMY's Board) from time to time. If NSMY's Board so approves, the initial non-executive Chairman of NSMY's Board to be so nominated and selected by NSE shall be DATO' NADZMI.

A non-executive Chairman shall cease to hold such office if NSE so requires and his holding of such office shall be conditioned upon his agreement to such cesser.

8.1.6 The MD of NSMY shall be such NSMY Director appointed by NSE as NSE selects.

8.1.7 The Chief Financial Officer/Controller of NSMY shall be such person(s) as appointed by NSE as NSE selects.

8.1.8 NSE and/or its Related Co as the grantor to NSMY of the licence to use the marketing plans and/or distributor force therein described shall be entitled to appoint **1** (One) NSMH Director and **1** (One) NSMY Director. The Directors appointed by NSE pursuant to this Clause 8.1.8 shall be in addition to the NSMH Directors and NSMY Directors appointed pursuant to Clause 8.1.4(i).

8.1.9 Save for the appointment by (as applicable) FRANKIE or DATO' NADZMI of (as applicable) FRANKIE or DATO' NADZMI as Directors of NSMH or NSMY, the appointment of persons whom (as applicable) FRANKIE or DATO' NADZMI selects for appointment as Directors of NSMH or NSMY shall be subject to the prior written approval of NSE.

### **8.2 Appointments & Removals**

8.2.1 A NSMH Member entitled to appoint a NSMH Director and NSMY Director shall be entitled:-

- i) to appoint an alternate director to (as applicable) such NSMH Director or NSMY Director;
- ii) to determine the period (as applicable) such NSMH Director or NSMY Director and his alternate director shall hold office;
- iii) to fill any casual vacancy arising from (as applicable) such NSMH Director or NSMY Director or his alternate director vacating his office; and
- iv) to remove such NSMH Director or NSMY Director or his alternate director from office and to appoint another in his place.

8.2.2 Any such appointment, determination and removal shall be by notice in writing to (as applicable) NSMH or NSMY and such notice shall (subject to the provisions of the Cos Act) take effect when it is delivered to the registered office of (as applicable) NSMH or NSMY.

8.2.3 The NSMH Member appointing and removing a NSMH Director or NSMY Director/alternate director shall indemnify and save

harmless (as applicable) NSMH or NSMY from all claims (if any) by the NSMH Director or NSMY Director or their respective alternate directors appointed or removed and resulting from the appointment or removal.

8.2.4 NSE shall be entitled to remove the MD or Chief Operating Officer/Controller of NSMY from such office and to appoint another person in his place and provision for termination of the MD's or Chief Operating Officer/Controller's engagement upon such removal shall be a condition of (as applicable) the MD's or the Chief Operating Officer's/Controller's engagement.

### **8.3 Resignations**

8.3.1 If in pursuance of Clauses 8.1 and 8.2, a purchaser of NSMH Shares shall be entitled to nominate a number of NSMH Directors or NSMY Directors, then simultaneously with the completion of the sale of the NSMH Shares concerned, the PARTY who is the seller thereof shall:-

- i) cause such number of the persons as shall have been nominated by such PARTY to hold office as NSMH Directors and NSMY Directors (and as shall be equivalent to the number of NSMH Directors or NSMY Directors which the aforesaid purchaser is entitled to appoint):-
  - a) to resign from such office; and
  - b) to disclaim unconditionally and in writing, all rights (if any) to such monies as may be payable by NSMH or NSMY to such person(s) by way of compensation for loss of office; and
- ii) remove the aforesaid persons from office as NSMH Directors and NSMY Directors if they do not resign from such office as aforesaid or give the aforesaid disclaimer.

8.3.2 The PARTIES (other than the PARTY who is the seller of the NSMH Shares) shall agree to the nomination by the acquirer (of the NSMH Shares hereinbefore referred to) of a NSMH Director and NSMY Director in the place of each NSMH Director and NSMY Director who resigns or is removed pursuant to the foregoing provisions of this Clause 8.3.

### **8.4 No rotation or removal by NSMH and NSMY**

8.4.1 The NSMH Directors and NSMY Directors shall not be required to retire by rotation nor shall they be removed by (as applicable) NSMH or NSMY.

8.4.2 Any removal of any NSMH Director or NSMY Director may be effected only by the NSMH Member who appointed the NSMH Director or NSMY Director concerned.

### **8.5 No shareholding qualification**

There shall not be any shareholding qualification for the holding of the office of a NSMH Director or NSMY Director.

## **9. DIRECTORS' MEETINGS**

### **9.1 Meetings of NSMH's Board or NSMY's Board**

9.1.1 Meetings of NSMH's Board and of NSMY's Board shall be convened and held at regular intervals and at least **2** (Two) times in each of (as applicable) NSMH's or NSMY's Financial Year.

9.1.2 In addition to such meetings of NSMH's Board or NSMY's Board as may be convened by order of (as applicable) NSMH's Board or NSMY's Board, NSMH's or NSMY's company secretary (as the case may be) shall, upon being directed so to do by any **2** (Two) (as applicable) NSMH Directors or NSMY Directors, give notice of a meeting of (as applicable) NSMH's Board or NSMY's Board and any **2** (Two) (as applicable) NSMH Directors or NSMY Directors may themselves give such notice.

9.1.3 Non-executive NSMH Directors and non-executive NSMY Directors (or their respective alternates) shall be paid only such fees, expenses or other remuneration as the Board may approve as a Key Issue (Board) or, in the case of the non-executive Chairman, as determined pursuant to Clause 12.2.

9.1.4 The remuneration payable and benefits accorded to NSMY's MD and Chief Financial Officer/Controller from time to time shall be approved by NSMY's Board as a Key Issue and they shall also be reimbursed all such costs and expenses (including traveling, accommodation and other out-of-pocket expenses) as they may properly incur in the discharge of their respective functions/responsibilities.

### **9.2 Notice of Board meetings**

9.2.1 A meeting of (as applicable) NSMH's Board and NSMY's Board shall be called by notice in writing served on all of (as applicable) NSMH Directors or NSMY Directors. Unless the majority of (as applicable) NSMH Directors or NSMY Directors including those nominated by NSE otherwise agrees in writing, not less than **7** (Seven) days notice (exclusive of the date of the notice and the date of the meeting concerned) shall be given of a meeting of NSMH's Board or of NSMY's Board.

9.2.2 Each notice of a meeting of NSMH's Board or NSMY's Board shall be:-

- i) accompanied by an agenda specifying in reasonable detail, all the business to be transacted thereat and all relevant papers for consideration or discussion; and
- ii) sent (as applicable) to all of the NSMH Directors or the NSMY Directors by hand, courier or telefax (with copy by hand, courier or certified mail being airmail in the case of NSMH Directors or NSMY Directors who are not resident in Malaysia).

### **9.3 Quorum**

- 9.3.1 The quorum for all meetings of (as applicable) NSMH's Board and NSMY's Board (other than an adjourned meeting) shall be **2 (Two)** (as applicable) NSMH Directors or NSMY Directors (or their duly appointed alternate directors) including a Director (or his alternate) nominated by NSE.
- 9.3.2 If such a quorum is not present at any meeting of (as applicable) NSMH's Board or NSMY's Board within half-an-hour of the time appointed for the meeting, then (unless the majority of the Directors including a Director nominated by NSE otherwise agrees in writing) such meeting shall stand adjourned to the same day in the following week, at the same time and place as the initial meeting. A notice of the adjourned meeting shall be sent by hand, courier or telefax (with copy by hand, courier or certified mail being airmail in the case of NSMH Directors or NSMY Directors who are not resident in Malaysia).
- 9.3.3 If, at the adjourned meeting, a quorum is not present within half an hour from the time appointed for the adjourned meeting, any **2 (Two)** (as applicable) NSMH Directors or NSMY Directors (or their alternates) present shall constitute a quorum.
- 9.3.4 For the purposes of Clauses 9.3.1, 9.3.2 and 9.3.3, a NSMH Director or NSMY Director who is in continuous communication and can hear and be heard by means of a conference telephonic or video connection with (as applicable) the NSMH Directors or the NSMY Directors present at a meeting of (as applicable) NSMH's Board or NSMY's Board shall be deemed to be present at such meeting.
- 9.3.5 Unless otherwise agreed to by the majority of (as applicable) NSMH Directors or NSMY Directors (including a Director nominated by NSE) at any meeting at which the quorum specified in Clause 9.3.1 is present, no resolution relating to any business may be proposed or passed at any meeting of (as applicable) NSMH's Board or NSMY's Board unless the nature of the business for such meeting is specified in the agenda sent together with the notice convening the meeting.
- 9.3.6 At any adjourned meeting of NSMH's Board or NSMY's Board, only matters specified in the notice of the initial meeting of (as applicable) NSMH's Board or NSMY's Board may be decided.

### **9.4 Chairman of Board meetings**

The Chairman of (as applicable) NSMH's Board or NSMY's Board shall be the chairman of all meetings of (as applicable) NSMH Directors or NSMY Directors. In the absence of the Chairman within **15 (Fifteen)** minutes after the time appointed for the holding of the meeting or if he is unwilling to act, any (as applicable) NSMH Director or NSMY Director present may be appointed to act as chairman of the meeting by the others of (as applicable) the NSMH Directors or NSMY Directors present at the meeting.

### **9.5 Key Issues (Board)**

A resolution of NSMH's Board and NSMY's Board on any of the following matters shall be valid only if passed by an affirmative vote of a simple majority of (as applicable) NSMH Directors or NSMY Directors present and voting including an affirmative vote of at least **1 (One)** (as applicable) NSMH Director or NSMY Director nominated by NSE:-

- 9.5.1 the approval of the Annual Business Plan (if any) and any variation to or departure from such Annual Business Plan;
- 9.5.2 recommendation on declaration/payment of dividends or redemption of shares;
- 9.5.3 save for the implementation of the Annual Business Plan (if any):-
- i) any borrowing or incurrence of indebtedness or forgiving of indebtedness by NSMH or NSMY or the lending of (as applicable) NSMH's or NSMY's funds; or
  - ii) any creation of any Encumbrance over the assets of (as applicable) NSMH or NSMY; or
  - iii) the giving of guarantee of any payments or performance of any debt or obligation of third parties and/or any NSMH Member;
- 9.5.4 any factoring or assignment of any of NSMH's or NSMY's book debts;
- 9.5.5 save as approved by (as applicable) NSMH's Board or NSMY's Board upon its approval of the Annual Business Plan (if any), acquisition of any business, any merger, joint venture or similar corporate transaction;
- 9.5.6 save as approved by (as applicable) NSMH's Board or NSMY's Board upon its approval of the Annual Business Plan (if any) and subject to Clause 9.5.5, any capital expenditure or investment or the sale or disposal of any part of the business, undertaking, property or assets of (as applicable) NSMH or NSMY involving a sum exceeding **RM100,000.00** (Ringgit One Hundred Thousand);
- 9.5.7 other than in implementation of an Annual Business Plan (if any), the entry by (as applicable) NSMH or NSMY into any lease (either as lessor or lessee) of any property, plant or equipment involving the payment of annual rentals in excess of **RM10,000.00** (Ringgit Ten Thousand);



- 9.5.8 save for the entry by NSMY into the Inter-co Agreements, the award or entry by (as applicable) NSMH or NSMY (in any Financial Year) of and into any contract for the sourcing or supply of goods, materials and/or equipment and/or the provision of services;
- 9.5.9 save for the entry by NSMY into the Inter-co Agreements, the entry by (as applicable) NSMH or NSMY into any licensing or other agreement involving the acquisition or disposal or the grant or receipt of rights to use and/or acquire technical know-how (whether patented or unpatented) or any other manufacturing technology, patents, trademarks or other industrial property;
- 9.5.10 other than in the ordinary course of business (the routine collection of debts being an example) or in the implementation of the Annual Business Plan, if any or except where advice is given to (as applicable) NSMH or NSMY that the defence of an action must be undertaken by (as applicable) NSMH or NSMY on an urgent basis or that application for injunctive relief or other interim order for preservation must be made by (as applicable) NSMH or NSMY, the commencement of any litigation or arbitration proceedings or the settlement, abandonment or compromise of any litigation, arbitration or governmental proceedings of any claim by or against (as applicable) NSMH or NSMY;
- 9.5.11 the appointment, dismissal and/or variation of the terms of employment of any of (as applicable) NSMH's or NSMY's executives or senior employees whose annual gross remuneration (calculated by reference to his salary, fixed monthly allowances or other payments and the amount of the contribution paid by (as applicable) NSMH or NSMY as his employer to the Employees Provident Fund) exceeds **RM100,000.00** (Ringgit One Hundred Thousand);
- 9.5.12 the adoption, variation or modification of any employees' compensation structure, benefit or retirement plans;
- 9.5.13 the fees, remuneration, emoluments and other benefits to be paid or accorded to NSMY's Managing Director and Chief Financial Officer/Controller, all others of (as applicable) NSMH Directors or NSMY Directors and (as applicable) NSMH's or NSMY's other key management personnel;
- 9.5.14 the extent and any variation of the powers delegated by NSMY's Board to NSMY's MD;
- 9.5.15 the entry into any agreement or arrangement not in the ordinary course of business and/or which cannot be terminated without penalty within **12** (Twelve) months from its commencement date;
- 9.5.16 make any sponsorship or political or charitable gift or donation;
- 9.5.17 the conduct by NSMH of any business other than the holding of NSMY Shares or the conduct by NSMY of any business other than the DS Business;
- 9.5.18 the termination of any agreements or arrangements entered into with NSE and/or Related Co, including the Inter-co Agreements;
- 9.5.19 approval of persons nominated by the relevant PARTIES in accordance with the provisions of this Agreement to hold office as (as applicable) NSMH Directors or NSMY Directors and/or alternate directors;
- 9.5.20 all decisions concerning and all relationships with distributors of the Products all matters involving the compensation plan and all contracts, arrangements and relationship with distributors of the Products;
- 9.5.21 the sale of Products other than through NSE's or its Related Co's distributor force;
- 9.5.22 NSMH's or NSMY's entry into and termination of any material contracts;
- 9.5.23 resolution of any tax or regulatory issues;
- 9.5.24 the establishment of any branch or representative office of (as applicable) NSMH or NSMY; and
- 9.5.25 any of the following matters in relation to NSMY as a wholly owned subsidiary of NSMH:-
- i) any reduction or other alteration in the authorised share capital of NSMY, the creation or issue of any NSMY Shares or other securities in NSMY, the making of calls on NSMY Shares, the grant of any option or right to subscribe for any shares in NSMY, the forfeiture or redemption of NSMY Shares or other securities in NSMY or any resolution altering the classification of NSMY Shares or other securities in NSMY or any rights pertaining thereto;
  - ii) unless NSMY is insolvent or pursuant to Clause 15.2.3, the passing of any resolution for the winding-up of NSMY;
  - iii) NSMY's enter into any partnership or joint venture with any other person or NSMY's making or entry into any proposal for the reconstruction, reorganisation, amalgamation, merger or consolidation of NSMY with any other company or corporation;
  - iv) a change in the corporate name of NSMY;
  - v) save pursuant to Clause 13.2.2, the appointment or the removal of NSMY's Auditors;
  - vi) the payment of any dividend or the making of any other distribution by NSMY or the capitalisation of NSMY's profits;
  - vii) save pursuant to Clause 14, the disposal of the whole or a material part of the undertaking, property or assets of NSMY;
  - viii) notwithstanding the powers contained in the objects clause of NSMY's Memorandum of Association, the undertaking or participation by NSMY of and in activities other than the DS Business including NSMY's entry into any transaction which is not in the ordinary course of NSMY's DS Business;

- ix) the amendment of NSMY's M & A;
- xi) the listing of NSMY; and
- xii) the establishment of a Subsidiary of NSMY, the issue of shares in such Subsidiary, any transaction resulting in the loss of control of or dilution of NSMY's interest in such Subsidiary and the dissolution of such Subsidiary.

## **9.6 Voting**

- 9.6.1 Save in respect of a Key Issue (Board) or a Key Issue (Members) (and subject to any other provision of this Agreement which, expressly or by implication, requires the approval or agreement of one or more or all of (as applicable) NSMH Members or NSMY Members in respect of any particular matter) a resolution of (as applicable) NSMH's Board or NSMY's Board at a meeting of (as applicable) NSMH Directors or NSMY Directors is valid if passed by an affirmative vote of a simple majority of (as applicable) NSMH Directors or NSMY Directors present and voting.
- 9.6.2 The Chairman of (as applicable) NSMH's Board or NSMY's Board shall NOT have a second or casting vote in the case of an equality of votes in a meeting of (as applicable) NSMH's Board or NSMY's Board.
- 9.6.3 (As applicable) a NSMH Director or NSMY Director who is in continuous communication and can hear and be heard by means of a conference telephone or video connection with (as applicable) the NSMH Directors or NSMY Directors present at a meeting of (as applicable) NSMH's Board or NSMY's Board may vote at such meeting and his vote shall be counted.
- 9.6.4 Unless prohibited by applicable laws, a NSMH Director or a NSMY Director nominated by NSE shall not be precluded from voting on any matter, contract, arrangements and/or transactions with, relating to or in connection with NSE and/or its Affiliates merely by virtue of his being an employee, officer, servant or shareholder of NSE and/or its Subsidiaries and/or its Related Co.

## **9.7 Directors' resolutions in writing**

- 9.7.1 A resolution in writing signed by the majority of (as applicable) NSMH Directors or NSMY Directors (including a Director nominated by NSE) shall be as valid and effectual as if it had been passed at a meeting of (as applicable) NSMH's Board or NSMY's Board duly convened and held.
- 9.7.2 Any such resolution in writing may be contained in one document or separate copies thereof (prepared and circulated by telefax with copy sent by hand, courier or certified mail being airmail in the case of a NSMH Director or NSMY Director who is not resident in Malaysia) which is signed by one or more of (as applicable) NSMH Directors or NSMY Directors.

An approval by letter or other written means of a proposed resolution in writing (which has been prepared and circulated as aforesaid) signed by a (as applicable) NSMH Director or NSMY Director and sent by him by telefax (with copy sent by hand, courier or certified mail being airmail in the case of a NSMH Director or NSMY Director who is not resident in Malaysia) shall be deemed to be a document signed by him for the purposes of the foregoing provisions.

- 9.7.3 Where 2 (Two) or more documents or copies of a document are prepared and circulated for the purpose of obtaining signatures, each of such documents or copies shall be certified in advance by (as applicable) NSMH's company secretary or NSMY's company secretary as a true copy of the proposed resolution in writing.

## **9.8 Exemption of Directors from personal liability**

Save for losses, damages and expenses incurred as a result of an act of bad faith or wilfull misconduct, a NSMH Director or NSMY Director or other officer of (as applicable) NSMH or NSMY shall not be liable for any losses, damages and expenses incurred by (as applicable) NSMH or NSMY as a result of (as applicable) such Director's or other officer's own wrongful act, omission or negligence or as a result of the execution or implementation by (as applicable) such Director or other officer of the directions and policies of (as applicable) NSMH's Board or NSMY's Board.

## **10. GENERAL MEETINGS**

### **10.1 Quorum**

- 10.1.1 The quorum necessary for the transaction of business at a General Meeting of NSMH shall be 2 (Two) NSMH Members (including NSE) present (as applicable) in person or by their corporate representatives or proxies.
- 10.1.2 If within half-an-hour from the time appointed for the holding of a General Meeting, a quorum as aforesaid is not present, the meeting shall stand adjourned to the same day in the next week at the same time and place. A notice of the adjourned meeting shall be given to all NSMH Members.
- 10.1.3 If at the adjourned meeting a quorum as aforesaid is not present within half-an-hour from the time appointed for holding the meeting, any 2 (Two) NSMH Members present shall be a quorum.

### **10.2 Voting**

- 10.2.1 Except for Key Issues (Members), matters arising at a General Meeting of NSMH shall be decided, whether on a show of hands or upon a poll, by a vote of a simple majority of NSMH Members present and voting.
- 10.2.2 The Chairman shall NOT have a second or casting vote in the case of an equality of votes in a General Meeting of NSMY.
- 10.2.3 The corporate representative or proxy for all general meetings of NSMY shall be nominated by NSE for appointment by NSMH.

### **10.3 Shareholders' resolution in writing**

- 10.3.1 A resolution in writing of NSMH Members shall be valid and effectual as if it had been passed at a General Meeting of NSMH Members duly convened and held if the same is signed by a majority of NSMH Members including NSE.
- 10.3.2 A resolution in writing of NSMY's Members shall be valid and effectual as if it had been passed at a General Meeting of NSMY's Members duly convened and held if the same is signed by the duly authorised corporate representative of NSMH.
- 10.3.3 Any such resolution in writing may be contained in one document or separate copies thereof (prepared and circulated by telefax with copy sent by courier or registered post) which is signed by one or more of (as applicable) NSMH Members or NSMY Members. An approval by letter or other written means of a proposed resolution in writing (which has been prepared and circulated as aforesaid) signed by (as applicable) a NSMH's or NSMY's Member and sent by him by telefax (with copy sent by courier or registered post) shall be deemed to be a document signed by him for the purposes of the foregoing provisions.
- 10.3.4 Where 2 (Two) or more documents or copies of a document are prepared and circulated for the purpose of obtaining signatures, each of such documents in copies shall be certified in advance by the company secretary of (as applicable) NSMH or NSMY as a true copy of the proposed resolution in writing.

### **10.4 Deadlock**

- 10.4.1 A deadlock shall be deemed to occur if the PARTIES or (as applicable) NSMH Directors or NSMY Directors are unable to agree upon Key Issue (Members) or Key Issues (Board), as the case may be, and a resolution on the same is not passed after the decision on the relevant Key Issue shall have been referred to NSMH Members at 2 (Two) General Meetings held at intervals of not less than 30 (Thirty) days.
- 10.4.2 A deadlock may be referred by either PARTY to arbitration pursuant to Clause 24.

## **11. KEY ISSUES (MEMBERS)**

Without prejudice to any other matters referred to in this Agreement which expressly or by implication require the written approval of all of NSMH Members, any of the following matters may be undertaken by NSMH only with the prior approval of NSE as a member of NSMH, such approval to be given where required by applicable laws, at a General Meeting of NSMH or by a shareholders resolution in writing:-

- 11.1 any reduction or other alteration in the authorised share capital of NSMH, the creation or issue of any NSMH Shares or other securities in NSMH, the making of calls on NSMH Shares, the grant of any option or right to subscribe for any shares in NSMH, the forfeiture or redemption of NSMH Shares or other securities in NSMH or any resolution altering the classification of NSMH Shares or other securities in NSMH or any rights pertaining thereto;
- 11.2 unless NSMH is insolvent or pursuant to Clause 15.2.3, the passing of any resolution for the winding-up of (as applicable) NSMH or its Subsidiary (including NSMY);
- 11.3 enter into any partnership or joint venture with any other person or make or enter into any proposal for the reconstruction, reorganisation, amalgamation, merger or consolidation of NSMH with any other company or corporation;
- 11.4 a change in the name of NSMH;
- 11.5 save pursuant to Clause 13.2.2, the appointment or the removal of NSMH's Auditors;
- 11.6 the payment of any dividend or the making of any other distribution by NSMH or the capitalisation of NSMH's profits;
- 11.7 the disposal of the whole or a material part of the undertaking, property or assets of NSMH;
- 11.8 notwithstanding the powers contained in the objects clause of NSMH's Memorandum of Association, any engagement by NSMH in activities other than as an investment holding company including the entry into any transaction not in the ordinary course of NSMH's business;
- 11.9 the amendment of NSMH's M & A;
- 11.10 the conversion of NSMH from a private to a public company;
- 11.11 the listing of NSMH;
- 11.12 the establishment of a Subsidiary of NSMH, the issue of shares in such Subsidiary, any transaction resulting in the loss of control of or

dilution of NSMH's interest in such Subsidiary and the dissolution of such Subsidiary; and

11.13 any of the Key Issues (Board) which any 2 (Two) of (as applicable) the NSMH Directors or the NSMY Directors refer to NSMH Members for decision as a Key Issue (Members).

## **12. MANAGEMENT OF NSMY & NSMY's CHAIRMAN**

### **12.1 Management of NSMY**

- 12.1.1 NSMY's MD shall be such NSMY Director nominated and selected by NSE and as may be acceptable to NSMY's Board.
- 12.1.2 NSMY's Board shall delegate to NSMY's MD, such powers, authorities and discretion as may be necessary or expedient for NSMY's MD to discharge his duties for the overall supervision, control and day-to-day management of NSMY and his responsibility for the day to day coordination of the activities of NSMY and its observance and performance of the terms and conditions of any contract to which it is a party.
- 12.1.3 Without derogating from the generality of the foregoing provisions, NSMY's MD shall be empowered:-
- i) to implement the Annual Business Plan as approved by NSMY's Board;
  - ii) to establish business systems for the efficient management of NSMY;
  - iii) subject to such approval of NSMY's Board as may be required pursuant to Clause 9.5.11, to engage and dismiss NSMY's officers, workmen, servants and other personnel upon such terms as to work functions and terms and conditions of employment as NSMY's MD deem appropriate and also to modify such terms and conditions all in accordance with NSMY's approved Annual Business Plan (if any) and NSMY's employment policy; and
  - iv) subject to such approval of NSMY's Board as may be required pursuant to Clause 9.5 to enter into any contracts in the ordinary course of NSMY's DS Business and the doing by NSMY in the ordinary course of NSMY's DS Business of all such acts and things as NSMY's MD may consider necessary or conducive to the interest of NSMY.

### **12.2 Chairman of NSMY**

- 12.2.1 So long as DATO' NADZMI holds not less than **20%** (Twenty Percent) of NSMH's total issued share capital, the PARTIES shall cause NSMY to appoint DATO' NADZMI as the non-executive Chairman of NSMY upon such terms and conditions as the NSMY Board (including a NSMY Director nominated by NSE) determines from time to time the aforesaid terms to include:-
- i) the payment by NSMY to DATO' NADZMI of a monthly fee of RM10,000.00 (Ringgit Ten Thousand) or such other amount as may be approved from time to time by NSMY's Board (including a NSMY Directors nominated by NSE);
  - ii) a monthly car allowance of RM5,000.00 (Ringgit Five Thousand) or such other amount as may be approved from time to time by NSMY's Board (including a NSMY Directors nominated by NSE);
  - iii) the provision of an office for DATO' NADZMI at the corporate office of NSMY; and
  - iv) the execution by DATO' NADZMI of a confidentiality and non competition/non solicitation agreement with NSMY upon terms and conditions acceptable to NSMY and NSE.

## **13. BUSINESS POLICY, FINANCIAL YEAR & POLICY, ANNUAL BUSINESS PLAN, INTER-CO AGREEMENTS & OTHER MATTERS**

### **13.1 Business Policy**

The PARTIES shall cause NSMH and NSMY to carry out its business in accordance with the following business policy:-

- 13.1.1 NSMY shall carry on and conduct the DS Business in accordance with the Annual Business Plan approved by NSMY's Board from time to time and in a proper and efficient manner;
- 13.1.2 NSMH and NSMY shall comply with all laws and regulations applicable to the DS Business for the time being;
- 13.1.3 NSMY shall use all reasonable means to expand the DS Business and to further the reputation and interest of NSMY; and
- 13.1.4 NSMY shall maintain with reputable insurers adequate insurance against all risks usually insured by companies carrying on business similar to NSMY's DS Business and for the full replacement value of all assets whether movable or immovable.

### **13.2 Financial Year, Auditors & Accounts**

- 13.2.1 The annual financial period for which the accounts of NSMH and NSMY shall be made up and audited shall terminate in each calendar year on **31st December** or such other date as the PARTIES may agree upon to comply with any applicable law.
- 13.2.2 NSMH's and NSMY's Auditors shall be PRICEWATERHOUSE COOPERS or such major international accounting firm as may be selected and appointed by (as applicable) the NSMH Members for NSMH or, NSMH from time to time.

- 13.2.3 The respective accounts of NSMH and NSMY shall be kept in English and at the registered office of (as applicable) NSMH or NSMY. All transactions of NSMH and NSMY shall be adequately and fully recorded and reflected in (as applicable) NSMH's and NSMY's accounts so that (as applicable) NSMH's and NSMY's accounts give a true and fair view of the financial affairs of (as applicable) NSMH and NSMY. The PARTIES (and their authorised representatives) shall have the right to inspect NSMH's and NSMY's accounts during (as applicable) NSMH's and NSMY's normal business hours and to make copies of such accounts.
- 13.2.4 The accounts of NSMH and NSMY shall be prepared on a historical cost basis and in accordance with generally accepted accounting principles in Malaysia consistently applied.
- 13.2.5 For the purposes of Clause 13.2.3, the PARTIES shall cause NSMH and NSMY to devise and maintain a system of internal accounting controls sufficient to provide reasonable assurance that:-
- i) transactions are executed in accordance with (as applicable) NSMH's Board or NSMY's Board's and the managing officers' general or specific authorization;
  - ii) transactions are recorded as necessary:-
    - a) to permit preparation of financial statement in conformity with generally accepted accounting principles or any other criteria applicable to such statements; and
    - b) to maintain accountability for assets;
  - iii) access to assets is permitted only in accordance with (as applicable) NSMH's Board or NSMY's Board's and managing officers' general or specific authorisation; and
  - iv) recorded accountability for assets is compared with the existing assets at reasonable intervals and appropriate action is taken with respect to any differences.

### **13.3 Financing policy**

- 13.3.1 If the working capital required by (as applicable) NSMH or NSMY exceeds the total issued and paid-up capital of (as applicable) NSMH or NSMY, the additional working capital shall be funded in the following manner and order of priority:-
- i) unsecured borrowings from banks and financial institutions;
  - ii) borrowings from banks and financial institutions secured by assets of (as applicable) NSMH or NSMY;
  - iii) subject to Clause 13.4 below and if (as applicable) NSMH's or NSMY's Board so approves, borrowings from banks and financial institutions secured by guarantees of (as applicable) NSMH Members or NSMH;
  - iv) if (as applicable) NSMH's or NSMY's Board so approves, unsecured advances by the PARTIES in the Shareholding Proportions; and
  - v) if (as applicable) NSMH's or NSMY's Board so approved, the issue and allotment of (as applicable) NSMH or NSMY Shares for cash at par to (as applicable) NSMH Members or NSMH.
- 13.3.2 All such advances as the PARTIES may agree to grant to (as applicable) NSMH or NSMY shall bear interest (both before and after judgement) at a rate equivalent to **2%** (Two Percent) above the Base Lending Rate of MALAYAN BANKING BERHAD calculated from the date of disbursement of the relevant advance and until the date of actual repayment by (as applicable) NSMH or NSMY of such advance.

### **13.4 NSMH Members' Guarantees**

- 13.3.1 If any guarantees from the NSMH Members shall be required for the repayment by NSMH of the borrowings referred to in Clauses 13.3.1(i) to 13.3.1(iii), such guarantees of NSMH Members shall be given (subject to all applicable laws) by NSMH Members in proportion to the Shareholding Proportions or, if proportionate guarantees shall not be acceptable to the provider of the aforesaid loans credit, guarantee and other facilities, by the NSMH Members jointly.
- 13.3.2 If a NSMH Member shall not be permitted by applicable laws to give the aforesaid guarantees then if the other NSMH Members so agree (but without being obliged so to do) such NSMH Members shall provide (in the proportions in which the NSMH Shares held by them bear to each other) guarantees for the amount which would otherwise have been guaranteed by the NSMH Member first referred to.
- 13.3.3 Prior to providing a guarantee for an amount which should (but for applicable laws) have been guaranteed by another NSMH Member or to payment as a joint guarantor of such amount of NSMH's indebtedness as exceeds the proportion which its NSMH Shares bears to NSMH's total issued capital, a NSMH Member shall be entitled to require:-
- i) within 90 (Ninety) days from the completion of the sale and purchase of such NSMH Shares or at such later date agreed as may be upon in writing between the seller and purchaser of such NSMH Shares obtain the release of such seller from any guarantees and/or indemnities which such seller may have given pursuant to this Agreement; and
  - ii) indemnify and keep such seller indemnified against any liability pursuant to any such guarantee or indemnity until such seller shall be released from all guarantees and/or indemnities which such seller may have given pursuant to this Agreement.

### **13.5 Release of Guarantees and Indemnities**

- 13.5.1 If a NSMH Member disposes of all of its NSMH Shares to another NSMH Member then subject to Clause 13.5.2, the purchaser of such NSMH Shares shall:-
- i) within **90** (Ninety days from the completion of the sale and purchase of such NSMH Shares or at such later date agreed as may be upon in writing between the seller and the purchaser of such NSMH Shares obtain the release of such seller may have given pursuant to this Agreement; and
  - ii) indemnify and keep such seller indemnified against any liability pursuant to any such guarantee or indemnity until such seller shall be released from all guarantees and/or indemnities which such seller may have given pursuant to this Agreement.
- 13.5.2 The aforesaid release and indemnity shall be conditional upon the discharge by the aforesaid seller of NSMH Shares of all of its liabilities (other than under the guarantees and indemnities mentioned in Clause 13.5.1) to NSMH, all third parties and other NSMH Members accrued or incurred prior to the sale of its NSMH Shares.

### **13.6 Privity**

The provisions of Clauses 13.3, 13.4 and 13.5 are strictly agreements (in capable of assignment in any manner whatsoever) between the PARTIES and enforceable only by them and none of such provisions may or shall be construed as conferring upon any third party including any creditor of either NSMH or NSMY any right to enforce such provisions against any of the PARTIES or otherwise to avail itself of any benefit therefrom.

### **13.7 NSMH's & NSMY's company secretary, registered office & solicitors**

- 13.7.1 The secretarial firm and NSMH's and NSMY's company secretary appointed by (as applicable) NSMH or NSMY to keep and maintain (as applicable) NSMH's or NSMY's secretarial records shall be such firm and person as shall be nominated by NSE for approval by (as applicable) NSMH's Board or NSMY's Board.
- 13.7.2 The registered office of NSMH and NSMY shall be at the office of (as applicable) NSMH's or NSMY's secretary and all secretarial records of (as applicable) NSMH or NSMY shall be kept with (as applicable) NSMH's or NSMY's secretary.
- 13.7.3 The solicitors of (as applicable) NSMH or NSMY shall be such law firm as may be nominated by NSE for approval by (as applicable) NSMH's Board or NSMY's Board.

### **13.8 Annual Business Plan & Periodical Reports of NSMY**

The PARTIES shall (by the Directors appointed by them) cause (as applicable) NSMH or NSMY:-

- 13.8.1 to prepare and furnish the following documents at the following times to the NSMY Directors [for approval in the case of the Annual Business Plan referred to in Clause 9.5.1]:-
- i) at least **60** (Sixty) days prior to the end of each of NSMY's Financial Year, a draft of the Annual Business Plan to be adopted by NSMY for NSMY's financial year next following; and
  - ii) within **45** (Forty Five) days of the end of each quarter, a balance sheet, profit and loss statement and cash flow statement for the preceding quarter; and
- 13.8.2 to require (as applicable) NSMH's or NSMY's Auditors to prepare and furnish within **5** (Five) months from the end of each of (as applicable) NSMH's or NSMY's Financial Years or such earlier time as NSE requires so as to enable it to comply with applicable laws of the United States of America, the audited financial statements of (as applicable) NSMH or NSMY for the preceding financial year.

### **13.9 Dividends & Distribution of Profits**

If in respect of any (as applicable) NSMH's or NSMY's Financial Year, (as applicable) NSMH or NSMY shall have profits available for distribution to (as applicable) NSMH Members or NSMH, the PARTIES shall procure that such profits be applied in the following manner and order of priority:-

- 13.9.1 as recommended by (as applicable) NSMH's or NSMY Board, the provision of working capital to finance the continuing operations and internal growth of the business of (as applicable) NSMH or NSMY;
- 13.9.2 transfers to reserves consistent with normal commercial requirements of businesses similar to those carried on by (as applicable) NSMH or NSMY; and
- 13.9.3 (subject to the availability of sufficient funds in cash and of tax credits under Section 108 of the Income Tax Act 1967 and any deductions required by applicable laws) the payment of such dividends (if any) as may be recommended by (as applicable) NSMH's Board or NSMY's Board.

### **13.10 Signing Authority in respect of bank account(s) operated by NSMH and NSMY**

The bank account(s) of NSMH and NSMY shall be operated and maintained as follows and the PARTIES shall cause (as applicable) the NSMH Directors or NSMY Directors appointed by them to pass the relevant board resolutions approving the same:-

- 13.10.1 NSMY shall open and maintain a bank account to be designated as a trust account whereby all monies payable from time to time by NSMY to NSI's distributors on behalf of NSI pursuant to the License Agreement referred to in Clause 13.11.2(i) shall be credited immediately into this trust account as soon as the amounts payable from time to time to NSI's distributors are determined  
AND  
all signatories to operate this designated bank account shall be nominated and selected by NSE.
- 13.10.2 subject to Clause 13.10.1, the signing authority in respect of bank account(s) operated and maintained by NSMH or NSMY from time to time shall be as follows:-
- i) for a transaction involving an amount NOT EXCEEDING **RM10,000.00** (Ringgit Ten Thousand), any of the authorised cheque signatory; and
  - ii) for a transaction involving an amount EXCEEDING **RM10,000.00** (Ringgit Ten Thousand), any 2 (Two) authorised signatories (including a signatory nominated or selected by NSE) who shall sign JOINTLY.

### **13.11 Inter-co Agreements**

- 13.11.1 To enable NSMY to undertake and continue to conduct the Said Business, to use the network of NSI Independent Distributors, sales compensation plan and trademarks belonging to NSE's Affiliate. NSI, to have access to NSI Confidential Information, the exclusive right to distribute the Products in the Territory and assistance in the form of management and consulting services for the development of the Said Business, the PARTIES shall cause NSMY to enter into inter alia licensing and technical/management services agreements, arrangements and/or transactions with NSE and/or its Affiliates from time to time upon such terms as NSMY's Board may approve.
- 13.11.2 The agreements, arrangements and/or transactions referred to in Clause 13.11.1 will include the following:-
- i) a License Agreement with NSI for the grant by NSI to NSMY of a licence to use NSI's network of NSI Independent Distributors, sales compensation plan and NSI Confidential Information upon the terms and conditions substantially set forth in the draft attached hereto marked "Annexure 3A", and includes such amendments or modifications thereto as may be agreed between NSMY and NSI;
  - ii) a Trademark Licensing Agreement with NSI for the grant by NSI to NSMY of a licence to use NSI's trademarks/tradenames upon the terms and conditions substantially set forth in the draft attached hereto marked "Annexure 3C", and includes such amendments or modifications thereto as may be agreed between NSMY and NSI;
  - iii) a Distribution Agreement with NSE's Affiliate, Nu Skin Enterprises Hong Kong, Inc. ("NSEHK") for exclusive rights to distribute the Products in the Territory upon the terms and conditions substantially set forth in the draft attached hereto marked "Annexure 3B", and includes such amendments or modifications thereto as may be agreed between NSMY and NSEHK;
  - iv) a Management Services Agreement with Nu Skin International Management Group, Inc. ("NSIMG") for the provision by NSIMG of management and consulting services to NSMY upon the terms and conditions substantially set forth in the draft attached hereto marked "Annexure 3D", and includes such amendments or modifications thereto as may be agreed between NSMY and NSIMG.
- 13.11.3 Each of FRANKIE and DATO' NADZMI hereby:-
- i) acknowledges and confirms that:-
    - a) he(and if applicable, their respective advisors) has had ample opportunity to review all of the Inter-co Agreements referred to in Clause 13.11.2 and to speak and ask questions of such persons and representatives of NSE and/or NSI as they consider necessary to make an informed decision on the acceptance by NSMY of all of the terms and conditions contained in the Inter-co Agreements; and
    - b) the Inter-co Agreements are fair and reasonable to NSMY; and
  - ii) undertakes to exercise its voting powers and rights in NSMY to cause NSMY's Board and, if applicable, the NSMY Members to approve the entry by NSMY into the Inter-co Agreements and the execution by NSMY of the same within 7 (Seven) days from the date of fulfilment of all of the conditions precedent in Clause 2.1.

### **14. SALE BY NSMY OF DS BUSINESS OR BY NSMH OF ITS NSMY SHARES**

- 14.1 If NSE decides that NSMY's DS Business or all of NSMH's NSMY Shares should be sold and so notifies the other PARTIES, each of FRANKIE and DATO' NADZMI shall, following the delivery to them of a fairness opinion from a reputable investment/merchant banker or other adviser that the amount of the consideration offered by the proposed acquirer is fair to all of the NSMH Members:-
- 14.1.1 exercise his/its voting powers and rights in NSMH to cause NSMH to approve (as applicable) the sale and transfer by the PARTIES of their respective NSMH Shares or the sale by NSMY of NSMY's DS Business; and
- 14.1.2 do all other acts and things as may be required of him/it to effect (if applicable) the sale and transfer of his/its NSMH Shares.

14.2 Subsequent to the completion of (as applicable) NSMY's sale of its DS Business or the sale and transfer by all of NSMH Members of all of their respective NSMH Shares, the PARTIES shall do all acts and things to wind up NSMH and NSMY voluntarily and to distribute all of NSMH's assets in the Shareholding Proportions.

## **15. TERMINATION**

### **15.1 Events of Default**

Each of the following events shall be an Event of Default:-

- 15.1.1 if a PARTY commits or allows to be committed a breach of any of such PARTY's obligations hereunder and, in the case of a breach capable of remedy, fails to remedy such breach within **30** (Thirty) days after written notice has been given to such PARTY by any other PARTY requiring such remedy; or
- 15.1.2 where a PARTY is a body corporate, if a petition shall be presented or an order made or a resolution passed for the winding up (except as part of a bona fide scheme of reconstruction or amalgamation) of a PARTY or a PARTY shall compound with its creditors or have a receiver appointed of the whole or any part of its assets or shall cease or threaten to cease (other than in the course of reconstruction or amalgamation) to carry on the whole or any substantial part of its business; or
- 15.1.3 where a PARTY is an individual, such PARTY dies, becomes of unsound mind, incapacitated, commit an act of bankruptcy or is adjudicated a bankrupt or
- 15.1.4 if adjudication and receiving orders are made against a PARTY; or
- 15.1.5 if there is a change in control (whether at (board/management or shareholders level) of a NSMH Member being a body corporate and the prior written consent of the other PARTIES to such change shall not have been obtained/granted; or
- 15.1.6 if an Affiliate, a Subsidiary or a Related Co of a PARTY fails to re-transfer the NSMH Shares held by it to the PARTY who transferred the NSMH Shares to it within **30** (Thirty) days of its ceasing to be an Affiliate, a Subsidiary or Related Co of that PARTY; or
- 15.1.7 if any of the Inter-co Agreements described in Clause 13.11 is terminated or if NSMY breaches any provision of any of the Inter-co Agreements or commits any act or omission which entitles (as applicable) NSMY or NSI to terminate any of the Inter-co Agreements.

### **15.2 Call option/deemed offer of sale/winding-up**

Upon the occurrence of an Event of Default, the Non-Defaulter(s) shall be entitled (but shall not be obliged) by notice in writing issued by the Non-Defaulter or if there are several of them, by all of the Non-Defaulters, and served on the Defaulter within **180** (One Hundred and Eighty) days from the date on which the Non-Defaulter became aware of the occurrence of the Event of Default:-

- 15.2.1 to require the Defaulter to purchase all of the NSMH Shares held by the Non-Defaulter(s) in which event, the Defaulter shall purchase the aforesaid NSMH Shares at the price and upon the terms provided in Clauses 15.3 to 15.7; or
- 15.2.2 to require the Defaulter to sell to the Non-Defaulter(s) (subject to the grant of MTDCA's Approval) and if there are several Non-Defaulters, in the proportions in which the NSMH Shares held by them bear to each other) all of the NSMH Shares held by the Defaulter whereupon the Defaulter shall immediately make an offer (failing which it shall be deemed to have made an offer upon its receipt of the notice served as aforesaid) to sell to the Non-Defaulter(s) the NSMH Shares held by the Defaulter, at the price and otherwise upon the terms provided in Clauses 15.3 to 15.7; or
- 15.2.3 to require NSMH and/or NSMY be wound up in which event, the PARTIES shall forthwith do all acts and things to procure the winding up of (as applicable) NSMH and/or NSMY in accordance with all applicable laws and (as applicable) NSMH's or NSMY's articles of association; and/or
- 15.2.4 to terminate this Agreement but without prejudice to the Defaulter's obligations arising upon the service of the aforesaid notice and any rights or liabilities of any PARTY hereunder whether pre-existing or arising from the termination of this Agreement.

### **15.3 Sale price**

The NSMH Shares referred to in Clauses 15.2.1 and 15.2.2 shall be sold and purchased at the price established in terms stated in Clause 7.2.2(i).

The costs incurred in establishing the Certified Value of the NSMH Shares referred to in Clauses 15.2.1 and 15.2.2 shall be borne by the Defaulter.

The aforesaid costs may be deducted from the proceeds of sale of the NSMH Shares sold by the Defaulter and applied in discharge of the aforesaid costs.

### **15.4 Time for acceptance**



The offer to sell the NSMH Shares referred to in Clause 15.2.2 shall remain open for acceptance for a period of **14** (Fourteen) days from the date on which the Certified Value is certified. Failing acceptance as aforesaid, the offer shall be deemed to be declined.

## **15.5 Further offers**

Any NSMH Share remaining unaccepted as aforesaid shall be deemed to be offered by the selling PARTY for sale at the price established in terms stated in Clause 7.2.2(i) to such PARTIES as shall have accepted as aforesaid the NSMH Shares offered to them and in the proportions in which the NSMH Shares held by them bear to each other. Such PARTIES shall be at liberty to accept the NSMH Shares offered pursuant to this Clause 15.5 within **7** (Seven) days from the date of expiry of the period of **14** (Fourteen) days referred to in Clause 15.4.

If any NSMH Shares remain indisposed of pursuant to the foregoing provisions, then such further offers as may be necessary shall be deemed to be made in like manner until all of the NSMH Shares concerned shall have been sold.

## **15.6 Acceptances to be subject to the grant of MDTCA's Approval**

Any acceptance given pursuant to the foregoing provisions shall be deemed to be made subject to, if applicable, the grant of MDTCA's Approval.

A PARTY who has accepted an offer made pursuant to Clause 15.2.2 or 15.5 shall be entitled to nominate a 3rd party Purchaser to purchase the NSMH Shares concerned in the place of such PARTY if the selling PARTY fails to obtain MDTCA's Approval for the sale of the NSMH Shares for reason the proposed purchaser is not acceptable to MDTCA.

## **15.7 Completion of sale and purchase**

The sale and purchase of the NSMH Shares referred to in Clauses 15.2.1 and 15.2.2 (the offer wherefore shall have been accepted in the case described in Clause 15.2.2) shall be completed (in respect of Clause 15.2.2, subject to the grant of MDTCA's Approval or, if applicable, the nomination of a 3rd Party Purchaser) at NSMH's registered office within a period of **21** (Twenty One) days from the date on which the Certified Value is certified or the grant of the MDTCA's Approval whichever shall be the later.

For the purposes of the completion of such sale and purchase:-

- 15.7.1 the PARTY who is the seller of the NSMH Shares aforesaid, shall deliver to the purchasing PARTY or, if applicable, the 3rd Party Purchaser nominated, the share certificates to the NSMH Shares sold together with the unstamped forms of transfer thereof executed by such PARTY in favour of the purchasing PARTY or, if applicable, the 3rd Party Purchaser; and
- 15.7.2 the purchasing PARTY or, if applicable, the 3rd Party Purchaser shall (against the delivery of the aforesaid share certificates and forms of transfer) pay to the selling PARTY the price established in terms stated in Clause 7.2.2(i) for such NSMH Shares after deduction (if applicable) of the costs incurred in establishing the Certified Value thereof and any indebtedness owed by the selling PARTY to the purchasing PARTY or, if applicable, the 3rd Party Purchaser.

## **16. MUTUAL CO-OPERATION**

### **16.1 Compliance and duties of good faith**

Each PARTY shall:-

- 16.1.1 do all acts and things within its power (including exercising its voting rights in NSMH and NSMY for the time being) to procure the implementation of the provisions of this Agreement;
- 16.1.2 use its best endeavours at all times to promote, for the common benefit of NSMH Members, the success of the DS Business;
- 16.1.3 be just and faithful to the other PARTY in all transactions relating to the DS Business; and
- 16.1.4 exercise the utmost good faith and maintain the highest integrity in its dealings with NSMH and NSMY and the other PARTY.

### **16.2 Execution of a new Shareholders Agreement**

16.2.1 Each of FRANKIE and DATO' NADZMI acknowledges and confirms his awareness that:-

- i) following completion of the SPA(OBI), the Other Bumiputera Investor will be a NSMH Member;
- ii) the Other Bumiputera Investor may require amendments to the provisions of this Agreement to accommodate its needs;
- iii) a new Shareholders Agreement may need to be executed by the PARTIES and the Other Bumiputera Investor.

16.2.2 Each FRANKIE and DATO' NADZMI accordingly:-

- i) agrees and undertakes to use his best endeavours to agree, in all good faith, on all the terms of the new Shareholders Agreement with NSE and the Other Bumiputera Investor;
- ii) agrees that the Other Bumiputera Investor shall be entitled to nominate **1** (One) NSMH Director and **1** (One) NSMY Director so long it holds the 20% Block;
- iii) agrees to all such provisions in the new Shareholders Agreement as are the same or similar whether in form or substance to the provisions in this Agreement; and

- iv) undertakes to consider and execute the new Shareholders Agreement with all possible speed.

## **17. CONFIDENTIALITY**

### **17.1 Confidentiality**

- 17.1.1 Each PARTY (who is other than NSE) shall during and after the expiry or termination of this Agreement, maintain in confidence, all NSI Confidential Information and NSMY Confidential Information and shall not disclose any NSI Confidential Information or NSMY Confidential Information for any purpose whatsoever.
- 17.1.2 In maintaining the confidentiality of NSI Confidential Information and NSMY Confidential Information, each PARTY shall exercise the same degree of care that he/it exercises with his/its own confidential information and in no event less than a reasonable degree of care.
- 17.1.3 Each PARTY shall use his/its best efforts to ensure that except with NSI's prior written consent, no person other than such officers and employees of NSMY as have a need therefor, shall have access to NSI Confidential Information.

### **17.2 Exceptions**

The obligation of confidentiality contained in Clause 17.1 shall not apply to the extent:-

- 17.2.1 that a PARTY is required to disclose information by order or regulation of a governmental agency or a court of competent jurisdiction but such PARTY shall, to the extent possible, not make any such disclosure without first notifying and allowing (as applicable) NSI in the case of the NSI Confidential Information or NSMY in the case of the NSMY Confidential Information, a reasonable opportunity to seek injunctive relief from (or a protective order with respect to) the obligation to make such disclosure; or
- 17.2.2 that the PARTY disclosing information can demonstrate:-
- i) that the information disclosed was, at the time of such disclosure already in or subsequently becomes part of, the public domain other than as a result of actions of such PARTY in violation of its obligation of confidentiality in Clause 17.1 or, where such PARTY is a company, corporation or other body corporate, its Affiliates, or the employees, consultants, agents or subcontractors of such PARTY or, where such PARTY is a company, corporation or other body corporate of any of its Affiliates; or
  - ii) the information disclosed was received by such PARTY on an unrestricted basis from a source unrelated to NSI, in the case of the NSI Confidential Information or NSMY, in the case of the NSMY Confidential Information and such PARTY has no knowledge or reason to know that he/it is under a duty of confidentiality with respect of such information.

### **17.3 Unauthorized Disclosure**

- 17.3.1 Each PARTY acknowledges and confirms that the NSI Confidential Information and NSMY Confidential Information constitute valuable Draft proprietary information and trade secrets of NSI and NSMY respectively and that the unauthorized use, loss or outside disclosure of such information will cause irreparable injury to NSI, NSMY and NSMH, in the case of the NSI Confidential Information and to NSMY and NSMH, in the case of the NSMY Confidential Information.
- 17.3.2 Each PARTY shall notify NSI, in the case of the NSI Confidential Information or NSMY, in the case of the NSMY Confidential Information, immediately upon discovery of any unauthorized use or disclosure of (as applicable) NSI Confidential Information or NSMY Confidential Information, and will cooperate with (as applicable) NSI or NSMY in every reasonable way to help regain possession of such information and to prevent its further unauthorized use.
- 17.3.3 Each PARTY acknowledges that monetary damages will not be a sufficient remedy for any unauthorized disclosure of the NSI Confidential Information or NSMY Confidential information and that NSI, in the case of the NSI Confidential Information and NSMY, in the case of the NSMY Confidential Information, shall be entitled, without waiving other rights or remedies, to such injunctive or equitable relief as may be deemed proper by a court of competent jurisdiction, and shall be entitled to recover reasonable attorney's fees for any action arising out of or relating to a disclosure of such Confidential Information.

## **18. PUBLICITY**

No PARTY (other than NSE) shall issue any press release or publish any public document or make any public statement or announcement of any kind in relation to, in connection with, arising out of or in respect of the subject matter of this Agreement or the transactions or matters contemplated by it unless the purpose, form and text thereof shall be specifically agreed in writing by NSE.

## **19. NON-COMPETITION**

### **19.1 Restriction against competition**

The provisions of Clauses 9.1.1 to 19.1.7 shall apply, subject to the provisions of Clause 19.3, to all PARTIES other than NSE.

- 19.1.1 So long as a PARTY is a NSMH Member, such PARTY shall not and shall ensure, where it is a company, corporation or other body corporate, that (as applicable) its Affiliate will not establish, develop, carry on or assist in carrying on or be engaged, concerned, interested or employed in or provide technical, commercial or professional advice to any business, enterprise or venture or hold, directly or indirectly, any beneficial interest in a company carrying on in Malaysia, any business which is the same as or similar to NSMY's DS Business and in competition with NSMH, NSMY or any Affiliate of NSMH or NSMY.
- 19.1.2 So long as a PARTY is a NSMH Member, such PARTY shall not and shall ensure, where it is a company, corporation or other body corporate, that (as applicable) its Affiliate will not establish, develop, carry on or assist in carrying on or be engaged, concerned, interested or employed in or provide technical, commercial or professional advice to any business, enterprise or venture or hold, directly or indirectly, any beneficial interest in a company carrying on in a country other than Malaysia where NSE or NSI and/or its Affiliate carries on business, any business which is the same as or similar to NSMY's DS Business in competition with NSMH, NSMY or any Affiliate of NSMH or NSMY.
- 19.1.3 A PARTY who ceases to be a NSMH Member shall not and shall ensure, where it is a company, corporation or other body corporate, that (as applicable) its Affiliate will not, for a period of **3** (Three) years from the date on which such PARTY ceases to be a NSMH Member, establish, develop, carry on or assist in carrying on or be engaged, concerned, interested or employed in or provide technical, commercial or professional advice to any business, enterprise or venture or hold, directly or indirectly, any beneficial interest in a company carrying on in Malaysia, any business which is the same as or similar to NSMY's DS Business and in competition with NSMH, NSMY or any Affiliate of NSMH or NSMY.
- 19.1.4 A PARTY who ceases to be a NSMH Member shall not and shall ensure, where it is a company, corporation or other body corporate, that (as applicable) its Affiliate will not, for a period of **3** (Three) years from the date on which such PARTY ceases to be a NSMH Member, establish, develop, carry on or assist in carrying on or be engaged, concerned, interested or employed in or provide technical, commercial or professional advice to any business, enterprise or venture or hold, directly or indirectly, any beneficial interest in a company carrying on in a country other than Malaysia where NSE or NSI and/or its Affiliate carries on business, any business which is the same as or similar to NSMY's DS Business.
- 19.1.5 So long as a PARTY is a NSMH Member and for a period of **2** (Two) years thereafter, a PARTY shall not and shall ensure, where it is a company, corporation or other body corporate, that (as applicable) its Affiliate will not, for the purpose of offering to such client or customer or obtaining from such supplier, goods or services similar to or materially competing with those of NSMY's DS Business or the Products, solicit, canvass or entice away or endeavour to solicit, canvass or entice away from NSMY's DS Business, the custom of any person, firm or company who (as applicable) is or was at any time during the period of **12** (Twelve) months immediately preceding the date on which such PARTY ceases to be a NSMH Member:-
- i) following its negotiations with NSMY for the supply of goods or services, a potential supplier of goods or services to NSMY in relation to NSMY's DS Business; or
  - ii) a customer of or supplier to NSMY's DS Business; or
  - iii) in the habit of otherwise dealing with NSMY in relation to NSMY's DS Business.
- 19.1.6 A PARTY shall not at any time after such PARTY ceases to be a NSMH Member, carry on business or trade under a name which is identical with or similar to any names used by NSMY's DS Business or which suggests any connection with NSMY's DS Business or NSE or NSI.
- 19.1.7 So long as a PARTY is a NSMH Member and for a period of **3** (Three) years thereafter, such PARTY shall not and shall ensure that (as applicable) its Affiliate will not solicit or entice away from NSMH or NSMY or its Subsidiaries, any person who is an officer, manager or employee of NSMH or NSMY or of any of its Subsidiaries.

## **19.2 Construction of restrictions**

- 19.2.1 The obligations contained in Clause 19.1 shall be construed as separate obligations and if one or more of such obligation is/are held to be against the public interest or unlawful or in any way an unreasonable restraint of trade, the remaining obligations shall continue to bind the NSMH Member concerned.
- 19.2.2 If any obligation contained in Clause 19.1 would be void as drawn but would be valid if the period or territory of application were reduced or if some part of the obligation were deleted, the obligation in question shall apply with such modification as may be necessary to make it valid and effective.

## **19.3 Limits on restriction**

The provisions of Clause 19.1.1 shall not apply to:-

- 19.3.1 the sale, marketing or distribution of products which are not personal care, nutritional products or other products marketed by NSMY from time to time;
- 19.3.2 the holding by a PARTY or its holding company of not more than **2%** (Two Percent) of the ordinary shares of a company carrying on any business which is the same as or similar to the DS Business if such company is listed on the Kuala Lumpur Stock Exchange or other recognised stock exchange and the ordinary shares of such company are quoted on (as applicable) the Kuala Lumpur Stock Exchange or other recognised stock exchange;
- 19.3.3 the sale, marketing and distribution of the Products as a distributor of NSMY or as an officer or employee of NSMY or of NSE or its Affiliate; or

19.3.4 the holding of any office or employment in NSE or its Affiliate.

#### **19.4 Acknowledgments of reasonableness of duration & scope of non-competition obligation**

Each PARTY acknowledges and agrees:-

- 19.4.1 that the availability to NSMY pursuant to the Interco Agreements of, among others, NSI Confidential Information including NSI's know-how in establishing and managing a direct sales business and a licence use NSI's network of NSI Independent Distributors, NSI's sales compensation plan is essential and critical to the very existence, success and growth of NSMH and NSMY; and
- 19.4.2 that NSE and its Affiliate conduct their respective businesses synergistically on a worldwide basis and as an integrated business;
- 19.4.3 that the Products are promoted and sold by NSE and its Affiliates on a worldwide basis through NSI's Independent Distributors; and
- 19.4.4 that each of the NSI Independent Distributors is entitled to market and sell, whether by himself/herself/itself or by others of the NSI Independent Distributors in his/her/its downline organisation, the Products in any country in which NSE or any of its Affiliate carries on business;
- 19.4.5 that accordingly the respective periods and areas encompassed in Clause 19.1 are reasonable so as to enable NSMY and NSMH to protect and also derive commercial returns from:-
- i) the licences, rights and other privileges granted to NSMY pursuant to the Interco Agreements which are essential and critical to NSMY's and NSMH's respective businesses; and
  - ii) the NSI Confidential Information which is made available to NSMY for use pursuant to the Interco Agreements and which NSMY as a user is required to safeguard;
- 19.4.6 that in undertaking such the activities described in Clauses 19.1.1 to 19.1.7 as are not specifically permitted by Clause 19.3, a PARTY (other than NSE) will necessarily use the NSI Confidential Information and the other intellectual property of NSE and its Affiliates which NSMY is permitted to use as licensee pursuant to the Interco Agreements; and
- 19.4.7 that damages alone would not constitute an adequate remedy for a breach by a PARTY of his obligation under Clause 19.1.

#### **20. REPRESENTATIONS & WARRANTIES**

##### **20.1 PARTIES' Warranties**

Each of the PARTIES hereby represents and warrants to the other PARTIES that:-

- 20.1.1 such PARTY has full power and authority to enter into and execute this Agreement and all instruments to be executed by such PARTY pursuant to this Agreement and to carry the terms hereof and thereof and deliver and perform all of its obligations under this Agreement and any other agreements contemplated hereunder;
- 20.1.2 this Agreement constitutes the legal, valid and binding obligations of the PARTY in accordance with their respective terms; and
- 20.1.3 such PARTY is not in default under any agreement to which it is a party or by which it is bound and no litigation, arbitration or administrative proceedings are presently current or pending or threatened which default, litigation, arbitration or administrative proceedings, as the case may be, might materially affect the ability of such PARTY to enter into and/or perform its obligations under this Agreement.

##### **20.2 NSE's Warranties**

NSE hereby represents and warrants to the other PARTIES that:-

- 20.2.1 it is a company duly organized and incorporated and validly existing and in good standing under the laws of the jurisdiction of its place of incorporation and has full power and authority to enter into and execute this Agreement and all instruments to be executed by it pursuant to this Agreement and to carry the terms hereof and thereof and deliver and perform all of its obligations under this Agreement and any other agreements contemplated hereunder; and
- 20.2.2 the execution, delivery and performance of this Agreement are within its corporate power, have been duly authorised by all necessary corporate action, does not contravene its memorandum and articles of association and does not violate any law or regulation or any judgment, order or decrees of any governmental authority, or any contract or undertaking binding on or affecting it.

##### **20.3 FRANKIE's/DATO' NADZMI's Warranties**

Each of FRANKIE and DATO' NADZMI hereby represent and warrant to the other PARTIES that:-

20.3.1 he is not a bankrupt and has not committed any act of bankruptcy; and

20.3.2 he has not committed any criminal offence.

## **21. DURATION**

### **21.1 Effective Date**

The Effective Clauses shall take effect upon the execution of this Agreement and the other provisions of this Agreement shall take effect upon the fulfillment of all of the conditions precedent contained in Clause 2.1 and this Agreement shall continue thereafter in full force and effect until:-

21.1.1 NSMH and NSMY shall be dissolved or otherwise cease to exist as a separate entity; or

21.1.2 this Agreement is terminated by mutual consent of the PARTIES; or

21.1.3 this Agreement is terminated pursuant to the terms hereof.

### **21.2 Termination**

Upon the occurrence of any of the aforesaid events, this Agreement shall be deemed to be terminated forthwith.

## **22. FORCE MAJEURE/VIS MAJOR**

### **22.1 Suspension of obligations**

If a PARTY is rendered unable wholly or in part by force majeure or vis major to carry out its obligations under this Agreement, such PARTY shall give to the other PARTY prompt written notice of the force majeure or vis major with reasonably full particulars concerning the same whereupon the obligations of the PARTY giving the notice, so far as it is affected by the force majeure or vis major shall be suspended during, but not longer than the continuance of the force majeure or vis major.

The PARTY giving the notice shall use all possible diligence to remove the effects of such force majeure or vis major with all due speed.

### **22.2 Alternative performance**

The PARTIES shall use their best endeavours to agree by immediate consultation on an alternative method of performance of any obligations or duties affected by the force majeure or vis major for so long as the same continues.

## **23. SEVERABILITY**

Any term, condition, stipulation, provision, covenant or undertaking in this instrument which is illegal, void, prohibited or unenforceable shall be ineffective to the extent of such illegality, voidness, prohibitions or unenforceability without invalidating the remaining provisions hereof, and any such illegality, voidness, prohibition or unenforceability shall not invalidate or render illegal, void or unenforceable any other term, condition, stipulation, provision, covenant or undertaking herein contained.

## **24. MODIFICATIONS TO AGREEMENT & WAIVERS**

### **24.1 Modifications in writing**

Any modification of or alteration to any part of this Agreement, shall be conferred upon and determined in writing by mutual consultation between the PARTIES.

### **24.2 Delay or acquiescence**

No failure or delay on the part of any PARTY in exercising any power or right under this Agreement shall operate as a waiver of such power or right nor shall the knowledge or acquiescence by any PARTY hereto of or in a breach of any terms or conditions of this Agreement constitute a waiver of such terms or conditions.

### **24.3 Subsequent breaches not affected**

No waiver by any PARTY of a breach of any term or condition of this Agreement shall constitute a waiver of any subsequent breach of the same or any other term or condition of this Agreement.

**24.4 Waivers to be in writing**

No waiver of any of the terms of this Agreement shall be valid unless in writing and signed by or on behalf of the PARTIES.

**25. GOVERNING LAW & JURISDICTION**

This Agreement shall be governed by and be construed in accordance with the laws of Malaysia and subject to Clause 24, the PARTIES shall submit unconditionally to the non- exclusive jurisdiction of the courts in Malaysia.

**26. ARBITRATION**

**26.1 Reference to Arbitration**

Any dispute or difference which may arise between the PARTIES at any time hereafter whether during the continuance in force of this Agreement or upon or after its termination, touching any matter or thing herein contained or the operation or construction of this Agreement or any matter or thing in any way connected with, arising from or in relation to this Agreement or the rights, duties, liabilities of the PARTIES hereunder shall be finally settled by arbitration in accordance with the United Nations Commission on International Trade Law Arbitration Rules 1976.

**26.2 Arbitral Proceedings**

A reference to arbitration shall be to **3** (Three) arbitrators. The arbitration shall be held in Provo, Utah, United States of America and the language to be used in the arbitral proceedings shall be English.

**26.3 Interim remedies**

Pending the establishment of the arbitral tribunal, the PARTIES may apply to the courts in Malaysia (which shall have non-exclusive jurisdiction) for the grant of interim injunctions and orders for the protection and preservation of property subject of or relating to this Agreement.

**27. NO AGENCY**

None of the provisions herein shall be deemed to constitute an agency between the PARTIES and none of the PARTIES shall have any authority to bind or shall be deemed to be the agent of the other PARTIES for any purpose whatsoever.

**28. LANGUAGE OF AGREEMENT**

The rights and obligations of the PARTIES shall be construed in accordance with the English version of this Agreement which shall be the authoritative version of this Agreement notwithstanding any translation of the same into any other language.

**29. COUNTERPARTS**

This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and any of the PARTIES may execute this Agreement by signing any such counterparts.

**30. NOTICES**

**30.1 Written notices**

Any notice with reference to this Agreement shall be in writing signed by the PARTY by whom it is served or by its solicitors and shall be deemed to be sufficiently served or given for all purposes herein on the PARTY to whom it is served if it is left by hand at or sent by commercial courier, registered post being airmail in the case of a notice for international delivery or facsimile (with copy by hand or commercial courier or ordinary or registered post being airmail in the case of a notice for international delivery) to (as applicable) the address of the PARTY to whom it is sent as set out below or the registered office for the time being of such PARTY or such other address as one PARTY may from time to time notify to the other PARTY in writing.

30.1.1 **to NSE**  
NU SKIN ENTERPRISES, INC.

75 West Center Street, Provo, Utah 84601  
United States of America  
Telefax: 00 1 801 345 3899  
Attn: General Counsel

30.1.2 **to FRANKIE**

KIOW KIM YOON, FRANKIE  
5-C, Heng Fa Villa  
100, Shing Tai Road

30.1.3 **to DATO' NADZMI**

DATO' MOHD NADZMI BIN MOHD SALLEH  
No. 36-1, Jalan PJU8/5B  
Perdana Business Centre  
Bandar Damansara Perdana  
47820 Petaling Jaya  
Selangor Darul Ehsan  
Telefax: \_\_\_\_\_

**30.2 Time of service**

A notice sent:-

- 30.2.1 by facsimile (and confirmed by the delivery of a copy thereof by hand or commercial courier or ordinary or registered post) shall be deemed to have been served and received upon completion of the effective transmission of such notice and a written record of the transmission is printed from the sender's facsimile machine;
- 30.2.2 by ordinary or registered post for delivery in the country in which it is posted shall be deemed to have been served and received on the **3rd** (Third) day occurring after the date on which it is posted;
- 30.2.3 by ordinary or registered airmail for international delivery shall be deemed to have been served and received on the **10th** (Tenth) day occurring after the date on which it is posted; and
- 30.2.4 by hand or commercial courier shall be deemed to have been served at the time of delivery of the notice.

**31. COSTS**

**31.1 Agreement**

Each Party shall bear its own solicitors' costs of and incidental to this Agreement. The stamp duty chargeable on this Agreement shall be borne by the PARTIES in equal proportions.

**31.2 Sale of NSMH Shares**

The stamp duty payable on any transfer of NSMH Shares shall be borne by the transferee thereof. The stamp duty and other disbursements, if any, chargeable on the transfers of NSMH Shares sold and purchased pursuant to an Offer shall be borne by the purchaser thereof.

**32. NON-ASSIGNABILITY**

No PARTY may assign its rights hereunder or any interest herein or transfer its obligations hereunder to any person, firm or company without the prior written consent of the other PARTIES.

**33. SUCCESSORS-IN-TITLE**

This Agreement is binding upon the successors-in-title and permitted assigns of a PARTY who is a body corporate and the heirs, personal representative and permitted assigns of a PARTY who is an individual/natural person.

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**IN WITNESS WHEREOF** the PARTIES have hereunto execute this Agreement the day and year first above written.

SIGNED by )  
for and on behalf of )  
**NU SKIN ENTERPRISES, INC.** )  
NSE aforesaid in the presence of:- )

SIGNED by **KIOW KIM YOON, FRANKIE** )  
FRANKIE aforesaid in the presence of:- )

SIGNED by **DATO' MOHD NADZMI** )  
**BIN MOHD SALLEH** )  
DATO' NADZMI aforesaid in the presence of:- )

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This is the execution page of the Shareholders Agreement dated the 28th day of September 2001 between NU SKIN ENTERPRISES, INC., KIW KIM YOON and DATO' MOHD NADZMI BIN MOHD SALLEH



# Nu Skin Japan Director Retirement Allowance Plan

1. Background. Based on Japanese employment regulations and customary business practice, Nu Skin Japan (NSJ) has implemented a retirement plan for NSJ employees. Employees who also serve on the Board of Directors are not eligible for the general retirement plan available to NSJ employees. In order to reward NSJ's most senior managers for their leadership, commitment and overall contribution to NSJ, and in order to attract and retain the highest quality leaders available to NSJ, a Director Retirement Allowance Plan was adopted that is available to senior managers in Japan who are both officers of the Corporation as well as members of the Board.

2. Details. The plan provides additional compensation above regular salary and bonuses, at the date of retirement, to eligible members as provided in the following formula:

Monthly Salary at Retirement \* Years of Service \* Efficiency Rate

(The efficiency rate is an arbitrary multiplier based on position)

	<u>Efficiency Rate</u>
President and Board Member	2.0
Vice President and Board Member	1.9
Executive Director and Board Member	1.8

3. Additional Allowance. Under the plan the Board of Directors is authorized to approve at their sole discretion, an additional allowance at the date of retirement in an amount determined by the Board of Directors but not more than 25% of the amount determined in accordance with the formula set forth in paragraph 2 above.

# NU SKIN ENTERPRISES

## Region/Country Executive - Incentive Plan July 2001 (updated March 15, 2002)

### Purpose

***Nu Skin Enterprises, Inc. ("Nu Skin") believes that sound compensation programs are essential to the retention, attraction and motivation of personnel. The purpose of the Plan is to focus executives on excellent, sustained performance that leads to long-term growth, profitability and stability.***

### Objectives

#### ***The objectives of the Incentive Plan include:***

- Focusing executives on the achievement of Nu Skin Enterprise business and strategic objectives;
- Enhancing operational efficiency and teamwork within each region or country;
- Increasing revenue and operating income; and
- Attracting, retaining and motivating executives by emphasizing "pay for performance" compensation programs that offer competitive total compensation (base salary + incentives) opportunities upon achievement of Region/Country financial and strategic objectives.

### Effective Plan Date, Duration and Performance Cycles

#### • **Effective Plan Date**

The effective Plan date is July 1, 2001. The Plan is in effect until further notice and can be cancelled or changed by notification to plan participants prior to the start of any fiscal quarter.

#### • **Performance Cycles**

Executives are eligible to earn 12.5% of the incentive award each fiscal quarter calculated on the individual's base salary as of the start of the quarter, and 50% of the incentive award each fiscal year calculated on the individual's base salary earned during the year, all based upon the Company's performance during the quarters and the year.

### Incentives and Participants

***Executive Incentive Plan Participants have target award opportunities designed to reward superior Regional/Country and Division performance and maintain externally competitive total cash compensation commensurate with the Region/Country's performance:***

Participants' incentive awards will be based upon the areas of the Company in which they contribute, and

Participants are assigned a target incentive award opportunity expressed as a percentage of their base salary. The following chart summarizes the percentages used to calculate the bonus for each executive group.

#### INCENTIVES

<u>Position</u>	<u>Total Target Incentive</u>	<u>Country Profit Portion</u>	<u>Country Revenue Portion</u>	<u>Division Revenue Portion</u>
Regional Vice President	50%	60%	40%	0%
Country President/General Manager	50%	60%	40%	0%
Country Senior Management	30% or 40%*	60%	40%	0%
Country Division Manager	30% or 40%*	60%	10%	30%

\*Percentage to be applied to each individual will be determined by the Regional Vice President

## PARTICIPANTS

### Position

Regional Vice Presidents  
Country President/General Manager

Country Senior Management

Country Division Manager

### Participants

Andrew Fan, Stewart McArthur, Nigel Sinclair  
Takashi Bamba, Sung Tae Han, John Chou, Paul Nobles, Mikael Linder, Roberto Policicio, Luiz Gonzales, Giovanni Lopez, Paul Hansen, Melisa Quijano, Bernie Mercado, Antonia Chang, Frankie Kiow  
Shuji Inoue, K.S. Song, M. Kato, T. Takunaga, Y. Hori, J. Dunn, M. Keller, Angela Lau, Iris Law  
Hori San, Sakamoto San, Luke Yoo, E.S. Park, Charlene Chiang, David Chen

## Critical Success Factors ("CSF's")

- The performance objective of Operating Profit is weighted at 60%
- The performance objective of Revenue is weighted at 40%

## Performance Thresholds

- **Threshold** levels represent the minimum acceptable performance levels required for incentive pay-out.
  - The threshold level for objective of Operating Profit is 95%
  - The threshold level for the objective of Revenue is 90%

*Note: If either CSF is below the threshold level at the end of the Plan performance cycle, no incentive will be paid.*

- At the **Threshold** level of performance, the incentive pay-out will begin at 50% and increase linearly to the **Targeted** or 100% level of performance.
- **Target** levels are set to essentially be in line with achievement of 100% of budgeted revenue and operating profit.
- **Outstanding** levels represent performance levels that exceed the target objectives.

## Target Guidelines

- As shown in the table above, Division executives will split the revenue based bonus between Country (10%) revenue and Division (30%) revenue.
- Target incentive award levels are determined by the individual's level of job responsibility, reflecting that job's ability to impact the Region/Country's financial performance, as well as competitive total compensation practices (base salary plus incentives) for comparable jobs within organizations similar in size and scope.
- The actual incentive pay-out may be smaller or larger, depending on overall Region/Country, and Division performance results.

## Incentive Award Pay-out Guidelines

- Eligible participants will be chosen by NSE and the Country Manager, and must be on the payroll at the time of the payment;
- The number of days from the date the Participant was selected for participation to the fiscal period-end will be used to prorate the incentive award;
- Participants will receive their awards, when earned, by separate check;
- Award payments shall be subject to any applicable withholdings; and
- Payments will be made approximately sixty days after each quarter-end, and ninety days after each fiscal year end.

- At the Outstanding performance level, target cash incentives will be increased linearly with the following exception:
  - The maximum possible achievement for markets that budget an operating loss is 100%. (Actual operating income loss must be less than budgeted loss).
  - The maximum possible achievement for markets that budget an operating profit between 0-5% is 150%.
  - The maximum possible achievement for markets that budget an operating profit between 5-10% with revenue less than 5 million per year is 200%.

## EXHIBIT 21

### Subsidiaries of Registrant

Nu Family Benefits Insurance Brokerage, Inc., a Utah corporation

Nu Skin Argentina, Inc., a Utah corporation with an Argentina branch

Nu Skin Asia Investment, Inc., a Delaware corporation

Nu Skin Enterprises Australia, Inc., a Utah corporation

Nu Skin Belgium, NV, a Belgium corporation

Big Planet, Inc., a Delaware corporation

Nu Skin Brazil, Ltda., a Brazil corporation

Nu Skin Canada, Inc., a Utah corporation

Cedar Meadows LLC, a Utah limited liability company

Nu Skin Chile, S.A., a Chilean corporation

Cygnus Resources, Inc., a Delaware corporation

NSE Domain, Ltd., a Cayman Island corporation

Nu Skin Domain, Ltd., a Cayman Island corporation

Nu Skin Enterprises Singapore Pte. Ltd., a Singapore corporation

Nu Skin Europe, Inc., a Delaware corporation

Nu Skin France, SARL, a French corporation

Nu Skin (FCS), Inc., a Barbados corporation

Nu Skin Germany, GmbH, a German corporation

Nu Skin Guatemala, Inc., a Guatemala corporation

NSE Hong Kong, Inc., a Utah corporation

Nu Skin International Management Group, Inc., a Utah corporation

Nu Skin Italy, Srl, an Italy corporation

Nu Skin Japan Company Limited, a Japanese corporation

Nu Skin Japan, Limited, a Japanese corporation

NSE Korea, Ltd., a Delaware corporation

NSE Korea, Ltd., a Korean corporation

Nu Skin Mexico, Inc., a Mexico corporation

Nu Skin Netherlands, B.V., a Netherlands corporation

NSE New Zealand, Inc., a Utah corporation

Pharmanex, LLC, a Delaware limited liability company

Pharmanex Domain, Ltd., a Cayman Island corporation

Nu Skin Philippines, Inc., a Delaware corporation with a Philippines branch

Nu Skin Poland Sp. z o.o., a Poland corporation

Sage Acquisition Corporation, a Delaware corporation

Nu Skin Scandinavia A.S., a Denmark corporation

Shanghai Nu Skin, Chinese company

Nu Skin Spain, S.L., a Spain corporation

Nu Skin Taiwan, Inc., a Utah corporation

Nu Skin Malaysia Holdings Sdn. Bhd.

Nu Skin (Malaysia) Sdn. Bhd.

Nu Skin Personal Care (Thailand), Ltd., a Delaware corporation

Nu Skin Personal Care (Thailand), Ltd., a Thailand corporation

Nu Skin U.K., Ltd., a United Kingdom corporation

Nu Skin United States, Inc., a Delaware corporation

Nutriscan, Inc., a Utah corporation

Zhejiang Cinogen Pharmaceutical Co., Ltd., a Chinese corporation

**CONSENT OF INDEPENDENT ACCOUNTANTS**

We hereby consent to the incorporation by reference in the Registration Statement on Form S-3 (No. 333-12073) and in the Registration Statements on Form S-8 (Nos. 333-48611, 333-68407, and 333-95033) of Nu Skin Enterprises, Inc. of our report dated February 1, 2002 relating to the financial statements, which appears in the Annual Report on Form 10-K.

/s/ PricewaterhouseCoopers LLP  
PricewaterhouseCoopers LLP  
Salt Lake City, Utah  
March 28, 2002