



# Version: S2 Everest 6.0 Scanner 36 Month Lease Agreement

## Scanner Lease Agreement USA Lease Cover Sheet and Checklist

(This completed cover sheet must accompany any submitted lease agreement.  
Failure to do so will delay the processing of your lease agreement)

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

US account number: \_\_\_\_\_ (US000100, for example)

Social Security Number: \_\_\_\_\_ - \_\_\_\_\_ - \_\_\_\_\_ State: \_\_\_\_\_

Phone Number: \_\_\_\_\_ Email Address: \_\_\_\_\_

Name of Account Manager is: \_\_\_\_\_

Loss and Damage Waiver Attached? YES or NO (circle one) Purchase Wireless NetGear USB Adapter also? \$15 YES or NO (circle one)  
Item # 01006997

### Special shipping, leasing and scan card purchase instructions:

By my signature on the Master Lease and Licensing Agreement, I authorize NuSkin Enterprises may at their option, perform a credit check and may obtain my personal F.I.C.O credit score. \_\_\_\_\_ Initials.

By my Initials here \_\_\_\_\_, I have read and understand Section 8 (Limitation on Laptop Use) on the Everest 6.0 Scanner Lease.

**Option A: \$80.00** shipping and handling fee will be charged at the time of lease set up date and scanner shipment. All scanners are sent out United Parcel Service with an upgraded two day delivery, fully tracked and Signature required upon delivery. (If you want your scanner to ship to another address other than what you listed in the Primary Location section of the lease document, please indicate the desired shipping address here.)

**Option B: \$40.00** pick up and processing fee will be charged at the time of lease set up date. All scanners can be picked up at Nu Skin Enterprises: 75 West Center, Provo, UT 84601.

**YES**, I am aware that I need to purchase **SCAN CARDS** in order to be able to perform scans with my BioPhotonic Scanner. 20pk scan card w/ portfolios brochures can be purchased separately with item # 01101422 (full pv).

**Yes! Please include me in the online directory as a Scan Operator for web browsers to contact me for a scan. I understand that my city and state (as listed on my account) along with my name will be viewable by those visiting [www.pharmanexusa.com](http://www.pharmanexusa.com) in search of Scanner Operators.**

I understand if I become unproductive with my scanner and fail to perform scans on a regular basis I may be removed from the online directory.

### CHECKLIST OF COMPLETION

#### Lease Documents: \_\_\_\_\_ (Please check upon completion)

1) The lease applicant is listed as an associate on the Distributor Account with NSE.....

2) Page 1 of Master Lease/Licensing Agreement is attached and complete.....

**\*\*\*Section 1 is always required as the Individual Licensee with personal SSN.\*\*\***

If you are a corporation, you need to fill out **BOTH Sections 1 and also Section 2** where the corporation Tax ID may be listed. **No Fed Tax ID's are accepted in Section 1** or on this cover page.

3) The primary location is filled out on page 1 section I.....

4) The credit cards listed on the Lease belong to the applicant.....

**(Only credit cards belonging to the applicant are accepted)**

5) Details for **two credit cards** are complete.....

(Two cards must be listed if more than one will show up on your credit report in your name.)

6) The applicant SSN on this cover page matches what is on the lease agreement Section 1.....

7) If you are a Healthcare Professional **Section H** is required to be complete .....

**If this page is not complete, your Everest S2 Scanner shipment will be delayed.**

**Fax completed forms to: 1-801-345-6869.**

V.8 2012  
10.31.12

Internal Processing Only  
Verified check list \_\_\_\_\_

**MASTER LEASE AND LICENSING AGREEMENT**  
**Version S2 BioPhotonic Scanner United States**  
***Everest Edition 6.0***

This Master Lease and License Agreement ("Agreement") is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ (the "Effective Date") between Nu Skin United States, Inc., a Delaware corporation having a place of business at 75 West Center Street, Provo, Utah 84601 ("Lessor"), and the below identified Lessee. This Agreement consists of this page ("Signature Page"), and the attached terms and conditions ("Terms and Conditions"). Each reference on this Signature Page shall be construed to incorporate all the terms provided in the Terms and Conditions. In the event of any conflict between the provisions of this Signature Page and the Terms and Conditions, the latter shall control. The basic terms of this Agreement:

**A. Scanner.** This Agreement is for a lease of personal property and related software known as the Pharmanex BioPhotonic Scanner ("Scanner") as more specifically described on the attached *Exhibit A*, which is incorporated herein by this reference.

**B. Expiration Date.** This Agreement is for a period of 36 months from the date on which the first Basic Rental is due and payable.

**C. Rental.** Basic Rental of \$209.00, monthly plus all Assessments, shall be due and payable *in arrears* on the 7th day of the following month. Each Rental payment shall be prorated for any partial month, and payments and all Assessments, shall be payable by Lessee's credit card.

**D. Down Payment.** \$500.00, which amount shall be applied to the final Rental payments due (equivalent to the Down Payment amount) so long as it has not previously been applied to a Lessee obligation due to a Default under the Agreement or forfeited upon earlier Termination or Expiration. The Down Payment shall be due and payable upon the execution by Lessee of this Signature Page.

**E. Credit Card Information for Rentals, Down Payment, Assessments and Other Amounts (TWO REQUIRED):**

Discover Card    American Express    VISA Credit    VISA Debit    MasterCard Credit    MasterCard Debit

Credit Card Number (PRINT CLEARLY) \_\_\_\_\_ Exp. Date \_\_\_\_/\_\_\_\_

Credit Card Billing Address, Zip Code \_\_\_\_\_

Card Holder Name as it Appears on the Credit Card \_\_\_\_\_

Primary Card  
Used always 1st attempt  
Secondary Card  
Only if Primary declines

Discover Card    American Express    VISA Credit    VISA Debit    MasterCard Credit    MasterCard Debit

Credit Card Number (PRINT CLEARLY) \_\_\_\_\_ Exp. Date \_\_\_\_/\_\_\_\_

Credit Card Billing Address, Zip Code \_\_\_\_\_

Card Holder Name as it Appears on the Credit Card \_\_\_\_\_

Cardholder's Signature: Use of the card is authorized by Lessee's signature on this Signature Page.

**F. Credit Authorization and Guarantee.** By signing below Lessee hereby authorizes the Lessor to obtain a credit report to verify the credit worthiness of the Lessee, from such credit reporting agency selected by Lessor in its sole discretion. Lessee hereby also personally guarantees any credit extended by Lessor if the Scanner is used for any business purposes.

**G. Renewal at Expiration.** This Agreement shall be automatically extended from year to year, in accordance with the provisions of Section 3, Term, of the Terms and Conditions, for a Renewal Term Rental of \$109.00 per month, plus all Assessments, due and payable monthly, in arrears, by valid credit card, on the same Rental Payment Dates as under the original Term, subject to the non-renewal and early termination provisions of such Section 3.

**H. Occupation.** If the LESSEE/LICENSEE is a health care professional or works in the health care industry, please indicate specific profession or occupation (e.g., chiropractor, MD, dentist, nurse, etc.): \_\_\_\_\_

**I. Primary Location:** \* the Equipment and Related Software shall be kept primarily at: \_\_\_\_\_

Telephone No.: \_\_\_\_\_

**IN WITNESS WHEREOF**, the parties have executed this Master Lease and Licensing Agreement as of this \_\_\_\_ day of \_\_\_\_\_, 20\_\_ , and Lessee's signatory warrants his/her authority to sign as Lessee or on Lessee's behalf.

**LESSOR/LICENSOR:**

NU SKIN ENTERPRISES UNITED STATES, INC.

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

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

Its: \_\_\_\_\_

Address: 75 West Center Street  
 Provo, Utah 84601

ATTN: \_\_\_\_\_

**(1) LESSEE/LICENSEE (THE INDIVIDUAL-REQUIRED):**

Name (print or type): \_\_\_\_\_

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

Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Social Security No.: \_\_\_\_\_

**(2) LESSEE/LICENSEE (IF A CORPORATION-OPTIONAL):**

Name of corporation: \_\_\_\_\_

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

Name of person signing: \_\_\_\_\_

Its (title): \_\_\_\_\_

Principal Corporate Address: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

## Terms and Conditions

1. **Meaning of Words** – “Scanner” means the Scanner and related equipment described in Exhibit A. “Related Software” means the software programs developed and owned by Lessor and described in such Exhibit A. “Distributor” shall mean an independent contractor who has signed a Distributor Agreement with Nu Skin Enterprises United States, Inc or its affiliate. Capitalized terms not defined in this Agreement shall have the meaning set forth in the Signature Page.
2. **Lease and License** - Lessor agrees to lease to Lessee, and Lessee agrees to lease from Lessor, the Scanner, and Lessor hereby licenses to Lessee the Related Software, all in accordance with the terms and conditions of this Agreement *provided, however*, that this Agreement shall only become effective upon the signing of all documents required pursuant hereto by an authorized representative of Lessor, which will occur only after (i) confirmation by Lessor that Lessee is a Distributor, and (ii) credit approval of Lessee by Lessor. **LESSEE WARRANTS THAT IT SHALL USE THE SCANNER PRIMARILY FOR BUSINESS PURPOSES AND NOT FOR PERSONAL, FAMILY OR OTHER PURPOSES. LESSEE FURTHER WARRANTS THAT IT SHALL ONLY USE THE SCANNER FOR THE PURPOSES EXPRESSLY ALLOWED IN SECTION 7.**
3. **Term; ADR; No Medical Device** –The term of this Agreement shall be a period of 36 consecutive months (“Initial Term”), commencing on the Effective Date. If Lessee is not in breach, this Agreement, shall renew automatically for additional 12 consecutive month periods (“Renewal Term”) unless either party gives the other written notice of its intent not to renew this Agreement at least 60 days prior to the expiration date (as set forth in the Signature Page, and hereinafter the “Expiration”) of its Initial Term or any Renewal Term. If Lessee fails to comply with Lessor’s Automatic Delivery Rewards (“ADR”) requirements, as announced and revised by Lessor from time to time (the “Minimum ADR Requirement”), Lessor may disable the Scanner and terminate this Agreement. Lessee acknowledges that (a) the Scanner is not a medical device, is not, and cannot diagnose, treat, cure or prevent any disease, has not been cleared as an approved medical device and Lessee assumes the risk that this Agreement may be terminated if the Scanner is deemed to be an unapproved medical device by the FDA, and (b) Lessor makes no representation or warranty that the Scanner is *not* a medical device. Lessee may terminate this Agreement at any time, subject to (i) thirty days prior written notice to Lessor; (ii) the return of the Scanner. Upon notice of early termination and satisfactory return of equipment, Lessee shall be released from further monthly payment obligation, but shall forfeit the Down Payment.

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4. **Rent; Prepayment** – Lessee shall pay Lessor the Down Payment, Basic Rental and Renewal Term Rental (collectively, the “Rental”) for the use of the Scanner and the licensing of the Related Software, in the amounts and on the dates (“Rental Payment Dates”) specified in the Signature Page. So long as there is no Default or termination under this Agreement, the Down Payment shall be applied towards the final payments of the Initial Term. If any amount payable is not paid within five (5) business days after it is due, Lessee shall immediately pay Lessor a late charge equal to 5% of such amount. Lessee shall also pay Lessor interest on all overdue amounts at the rate of 18% per annum or the maximum amount allowed by law, whichever is less. The Down Payment, all Rental, late charges and interest shall be payable automatically by a valid credit card as shown on the Signature Page, which credit card Lessee hereby authorizes Lessor to charge to receive Rental and all other amounts due and payable under this Agreement. Failure to maintain a valid, active credit card to make Rental payments shall constitute grounds for immediate termination of the Agreement.
5. **Title; Label** - Title to the Scanner (including any replacements, additions, accessories, modifications, upgrades, and enhancements) shall remain with Lessor at all times, and Lessee shall have no right, title or interest therein other than its leasehold and licensing interests under this Agreement. Lessee shall, at its expense, protect and defend Lessor’s title to the Scanner and keep it free and clear from any claims, liens, and encumbrances. The Scanner shall at all times be and remain personal property. Lessor may affix, or direct Lessee to affix, a label to the Scanner, and Lessee shall not alter, deface, cover or remove such identification or label.
6. **Limitation on Warranties** – The Scanner will be of the kind and quality described in the Signature Page, free of defects in workmanship and, with regard to the Scanner, in the material. Lessor shall, upon receipt of written notification and receipt of the Scanner (insured and shipped at Lessee’s expense), take steps to correct such nonconformity either by replacing the Scanner and/or Related Software, or component thereof, or by repairing any defective part or parts, at Lessor’s option. **The foregoing warranty shall be null and void if Lessee has modified, abused or damaged the Scanner or Related Software, or if the Scanner or Related Software is lost or damaged in shipping, in which event Lessee shall indemnify Lessor for all losses resulting therefrom; and provided further, that the foregoing warranty shall be null and void if Lessee removes the Scanner or Related Software outside the United States or Canada. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES OF LESSOR AND LESSOR SHALL NOT BE DEEMED TO HAVE MADE ANY OTHER WARRANTIES OF MERCHANTABILITY, FITNESS FOR PURPOSE OR OTHER WARRANTIES, EXPRESS OR IMPLIED. Lessor shall have no liability to Lessee or any third party for any special, direct, indirect, incidental or consequential damages of any sort.**
7. **Use and Operation of Scanner** - Lessee understands and agrees that the Scanner (and the Related Software) is a measuring tool, for use in determining whether to increase a person’s intake of certain selected dietary ingredients, specifically carotenoids.

The information derived from the measurement obtained from the Scanner is only part of an over-all, well rounded approach to good health practices, including regular monitoring of certain dietary intakes, and is not intended to provide an overall nutritional profile. Lessee shall use the Scanner in accordance with this Agreement and the User Manual accompanying the Scanner, in particular, shall not (i) make any unapproved claims; (ii) use the Scanner or Related Software to promote or sell nutritional supplements except those of Lessor or of Pharmanex, LLC; or (iii) represent that the Scanner can diagnose, prevent, mitigate, treat or cure any disease or condition of the human body. All Scanner use shall be in conformity with all applicable laws and regulations, any insurance policies, the warranties of Lessor herein, any manufacturer warranties, and any Scanner maintenance agreements. Lessee may permit other Distributors to use and operate the Scanner for customers and clients of such Distributors; provided, however, that Lessee shall continue to remain liable for all obligations under this Agreement. Lessee shall not relinquish possession of the Scanner or Related Software to a Distributor until such Distributor has been trained in the use, benefits and limitations of the Scanner, and has obtained Distributor's agreement to abide by this Section 7. Lessee shall insure that Distributors do not permit any other person, firm or corporation to use the Scanner or Related Software.

8. **Limitation on Laptop Use - The** Scanner equipment includes a laptop computer capable of accessing the internet (the "Laptop"). Lessee shall only use the Laptop as necessary to operate the Scanner. The Laptop may not be used to access any internet site except for certain pages of the Lessor's website that are necessary to properly operate the Scanner. In the event Lessee uses the Laptop to access a website that is not specifically permitted by Lessor, Lessee will be liable for any damages caused by any computer virus, spyware, or other software that affects the Laptop or the Scanner's ability to operate properly, and the warranty provided in Section 6 of this Agreement shall be null and void. Furthermore, in the event of such unauthorized use of the Laptop, Lessor may, at its own discretion, terminate this Agreement immediately.
9. **Risk of Loss** – Lessee assumes all risk of loss, damage, theft or destruction of the Scanner. If the Scanner is lost or stolen, or if Lessor determines that it cannot be repaired, Lessee shall, within 30 days after such loss, theft, damage or destruction, pay Lessor the cost of replacing such Scanner, as applicable, plus any other amounts owed under this Agreement, whereupon this Agreement shall terminate. The Down Payment may be applied toward outstanding Rental, late charges or Assessments.
10. **Maintenance and Repairs** – Except for normal cleaning and taking reasonable care of the Scanner, Lessor shall be responsible for all maintenance, defects or quality issues and Lessee shall promptly notify Lessor of all quality, maintenance or repair issues.
11. **Taxes and Assessments** – Lessee shall be responsible for and shall hold Lessor harmless from all documentation and filing fees and all taxes relating to this Agreement, the Scanner ("Assessments"), but excluding any Federal, state or local income taxes of Lessor imposed upon Lessor in consequence of its receipt of Rental payments.
12. **Indemnification** – Lessee assumes liability for and hereby agrees to indemnify, protect and keep harmless Lessor and its affiliates and their officers, directors and employees from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses, including reasonable attorney's fees and expenses, of whatsoever kind and nature, arising out of the use, condition or maintenance of the Scanner, whether authorized by Lessor or not, or whether arising from use of the Scanner by another Distributor, including but not limited to any use not authorized under Section 7. Any Lessee who is subject to the privacy rules of HIPAA and who uploads data from a scan to Lessor without a signed HIPPA Authorization, shall indemnify, protect and keep harmless Lessor and its affiliates and their officers, directors and employees from and against any and all liabilities, obligations, losses, damages, injuries, claims, demands, penalties, actions, costs and expenses, including reasonable attorney's fees and expenses, arising from Lessee's failure to obtain a HIPPA Authorization. Lessee alone shall determine if Lessee is subject to HIPAA, and Lessor hereby disclaims any responsibility or liability in connection with Lessee's failure to comply. The indemnities hereunder shall survive the Expiration or termination of this Agreement.
13. **Return of Scanner** – At the Expiration or earlier termination of this Agreement, Lessee shall return the Scanner and Related Software to Lessor at Lessor's address on the Signature Page, properly packaged and fully insured, at Lessee's expense, and freight prepaid by Lessee, in the same operating order, repair condition and appearance as on the Effective Date, except for reasonable wear and tear resulting from authorized use thereof. If the Scanner and Related Software are not returned in a timely fashion, or if repairs are necessary to place the Scanner or Related Software in the condition required in this Section, Lessee shall continue to pay to Lessor Rental at the last prevailing rate for the period of delay in redelivery, or for the period of time reasonably necessary to perform such repairs together with the cost of such repairs, as applicable. Lessor's acceptance of such Rental on account of such delay or repair does not constitute a renewal of the Term or a waiver of Lessor's right to prompt return of the Scanner in proper condition. If Lessor determines that the Scanner cannot be repaired, then Section 9 shall apply.
14. **Representations and Warranties of Lessee** – Lessee represents and warrants that: (i) this Agreement and all related documents are Lessee's legal, valid and enforceable obligations; (ii) it has entered into a Distributor Agreement with Lessor; (iii) the credit card identified on the Signature Page is in Lessee's name and is valid and is in full force and effect, and Lessee has authority to authorize Lessor to deduct or receive Rental and all other payments under this Agreement from such credit card, and that such credit card shall remain valid during the Term; (iv) **LESSEE'S DECISION TO LEASE THE SCANNER AND LICENSE THE RELATED SOFTWARE IS ENTIRELY DISCRETIONARY AND SUCH LEASE AND LICENSE MAY OR MAY NOT BENEFIT LESSEE'S BUSINESS AS A DISTRIBUTOR FOR LESSOR OR ANY OF ITS AFFILIATES;** (v) **LESSEE SHALL NOT RECEIVE ANY DISTRIBUTOR COMMISSIONS AS A RESULT OF LESSEE'S DECISION TO LEASE THE SCANNER AND LICENSE THE RELATED SOFTWARE;** (vi) Lessee is an independent contractor and as

such shall not attempt to speak for or to bind Lessor or its affiliates in any way; and (vii) Lessee shall not, and shall not permit any other person or entity, to operate or use the Scanner so as to incur or impose any liability against or obligation on Lessor.

15. **Default, Remedies and Adverse Credit Notice**– The following shall be Events of Default: (i) Lessee's failure to pay any amounts hereunder when due; (ii) the failure of any of Lessee's representations or warranties herein to be correct in any respect at any time; (iii) Lessee ceases to do business as a going concern, or sells substantially all of its assets, merges, consolidates or reorganizes with or into any entity; (iv) Lessee's insolvency, bankruptcy or assignment for the benefit of creditors (v) Lessee's failure to perform any obligation under its Distributor Agreement, including compliance with all policies and procedures in force by Lessor or any other agreement with Lessor or Lessor's affiliates, or any other creditor; or (vi) an adverse change in Lessee's financial condition as a result of which Lessor, in good faith, deems itself or the Scanner to be insecure. At any time after an Event of Default, Lessor may exercise any one or more of the following remedies and any other remedies under applicable law: (i) by written notice, terminate this Agreement; (ii) render the Scanner unusable; (iii) enforce Lessee's performance of this Agreement and/or recover damages for its breach; (iv) whether or not this Agreement is terminated, cause Lessee to promptly return the Scanner; and (v) recover all of its costs and expenses, including attorneys' fees. In addition to the foregoing remedies, with respect to the Related Software, Lessor shall also have the right to retain and fully exercise all of its rights and elections under Title 11 of the United States Code (the "Bankruptcy Code"), specifically including Section 365 of the Bankruptcy Code. If a petition in bankruptcy is filed by or against Lessee, Lessee shall assume or reject this Agreement, including the license granted hereunder, within sixty (60) days thereof. The personal property lease of the Scanner and license of the Related Software may not be severed for purposes of this Agreement. Lessor may also, at its option, recover by set off against bonuses due to Lessee under the Distributor Agreement, or by charging to Lessee's credit card, the amounts owing under this Agreement. Lessor's remedies shall be cumulative and in addition to all other legal or equitable remedies. No express or implied waiver of any Default shall waive any later Default. Any action by Lessee against Lessor relating to this Agreement must be commenced within one (1) year after any such cause of action accrues. **AS REQUIRED BY UTAH LAW, YOU ARE HEREBY NOTIFIED THAT A NEGATIVE CREDIT REPORT REFLECTING ON YOUR CREDIT RECORD MAY BE SUBMITTED TO A CREDIT-REPORTING AGENCY IF YOU FAIL TO FULFILL THE TERMS OF YOUR CREDIT OBLIGATIONS UNDER THIS AGREEMENT.**

16. **Assignment** – **LESSEE MAY NOT ASSIGN OR TRANSFER ITS RIGHTS AND OBLIGATIONS UNDER THIS AGREEMENT WITHOUT THE PRIOR WRITTEN CONSENT OF LESSOR. LESSOR MAY ASSIGN ITS RIGHTS UNDER THIS AGREEMENT AT ANY TIME.**

17. **True Lease** – Nothing contained herein shall give or convey to Lessee any right, title or interest in and to the Scanner or Related Software except as a lessee or licensee thereof. It is the express intent of the parties that this Agreement constitutes a true lease of personal property and a software license, and in no event shall it be considered a sale of the Scanner or the Related Software to Lessee.

18. **Tax Benefits** – Lessee acknowledges that Lessor is the owner of the Scanner for Federal and state income tax purposes, and as such is entitled to take all Federal and corresponding state depreciation deductions.

19. **Force Majeure** – The obligations of Lessor hereunder shall be suspended to the extent it is hindered or prevented from complying therewith because of the manufacturer's inability to perform for any cause whatever beyond its control.

20. **Miscellaneous** – The rights herein granted to Lessor shall also apply to its affiliated and subsidiary companies. The failure of a party to insist upon the performance of any term or condition of this Agreement or to exercise any right hereunder on one or more occasions shall not constitute a waiver or relinquishment of its right to demand future performance of such term or condition, or to exercise such right in the future. If any term of this Agreement is held by a court of competent jurisdiction to be invalid or unenforceable, then this Agreement will remain in full force and effect as if such invalid or unenforceable term had never been included. All notices and other communications required or permitted to be given under this Agreement shall be transmitted in writing to the address on the Signature Page by Certified United States Mail, by guaranteed overnight delivery, by electronic mail, or by facsimile. The laws of the State of Utah shall govern this Agreement. Any action brought to enforce it must be brought in Provo, Utah or in the Federal Courts in Utah. The Parties consent to the personal jurisdiction of such courts within Utah and waive any objection to improper venue. This Agreement, the Attachments and Exhibits embody the entire agreement between the Parties. No changes, modifications or amendments to any terms or conditions in this Agreement are valid or binding unless agreed to by the Parties in writing by their authorized representatives.

**EXHIBIT A  
TO  
MASTER LEASE AND LICENSING AGREEMENT**

EQUIPMENT

<u>Quantity</u>	<u>Vendor</u>	<u>Serial No(s). of Scanner S2 System(s)</u>	<u>Serial No(s). of Dell Laptop(s)</u>
	Nu Skin Enterprises United States, Inc.		

Description:

The term "Scanner" as used in this Agreement means: Pharmanex BioPhotonic Carotenoid Antioxidant Scanner System version 2 (S2) (the "S2 Scanner System Everest Edition"), manufactured by Pharmanex, consisting of hardware and software, including the following: (i) one BioPhotonic scanner which emits a green light source; (ii) one encasement which houses the light source and spectrometer; (iii) one laptop computer (the "Laptop") (which receives the data from the optical scanner), including but not limited to the processor, AC adapter, cables, liquid crystal displays, compact drive, hard drive, keyboard, base, battery, memory modules, internal modem, connectors, documentation, and all software provided with the Laptop or embedded therein or in any of the foregoing Laptop components or accessories; (iv) all Related Software, which means any proprietary software development tools, software libraries, rendering engines, content and other software or computer programming code, including all program output in the form of screen displays, graphics, printer output, plotter output and sounds that are part thereof relating to the S2 Scanner System (and whether embedded in the S2 Scanner System or residing on the Laptop), and in which Lessor shall retain all authorship and ownership rights, title and interest, subject to the licensing rights granted to Lessee under the Agreement; and (v) carrying cases for the S2 Scanner System and the Laptop, whether any of the foregoing (i) through (v) are now owned or hereafter acquired or developed, together with all additions, replacements, enhancements and modifications, and all proceeds and products thereof.

The term "Related Software" means any proprietary software development tools, software libraries, rendering engines, content and other software or computer programming code, including all program output in the form of screen displays, printer output, plotter output and sounds that are part thereof relating to the Scanner (and whether embedded in the Scanner or residing on the laptop used therewith), that are in existence and owned by Lessor as of the Effective Date, and in which Lessor shall retain all authorship and ownership rights, title and interest, subject to the licensing rights granted to Lessee under the Agreement.

USA SCANNER EQUIPMENT LOSS/DAMAGE WAIVER – OPTIONAL SERVICE

This Damage Waiver ("Waiver") is entered into between the undersigned Lessor and Lessee of the Equipment covered by the Lease Agreement (defined below) in order to release Lessee from certain obligations occurring as a result of an approved loss or damage event described below.

Waiver Consideration

In consideration of the damage waiver and release from liability provided herein, Lessee shall pay Lessor the applicable waiver fee for the chosen Option per month (the "Lessee Waiver Payment") for the Equipment. Lessee Waiver Payments shall be charged to Lessee's credit card in the same manner as Rental under the Lease Agreement, which charges Lessee hereby authorizes.

Must select one:

- Option A: Loss Waiver Only-- \$10 per month
Option B: Loss and Damage Waiver--\$25 per month

Damage or Loss Waiver

Option A: If the Equipment is lost or stolen and not recovered, and Lessee has elected and paid for Option A, then Lessor hereby waives any claim against Lessee for loss to the Equipment in excess of the first \$1,000.

Option B: If the Equipment is lost or stolen and not recovered, or damaged, and Lessee has elected Option B, then Lessor hereby waives any claim against Lessee for loss or damage to the Equipment in excess of the first \$1,000.

Coverage under either Option does not apply in countries or states where this Waiver is prohibited by law.

This Waiver (coverage under Option A or Option B, as applicable) shall not apply to any loss or damage due to:

- (a) any obligation Lessee has assumed under the Lease Agreement but is not specifically waived hereunder; (b) a violation by Lessee of any term or condition of the Lease Agreement; (c) Lessee's delay or failure to report the loss to Lessor and/or proper local authorities in a timely manner; or (d) loss, theft or damage caused by any willful or reckless act of Lessee or person acting on Lessee's behalf.

Duties of Lessee in the Event of Loss or Damage:

In the event of loss of or damage to the Equipment, Lessee shall, as applicable, (i) take all reasonable, necessary steps to protect and prevent further damage to the Equipment; (ii) report the loss to Lessor and, if stolen, to all appropriate local authorities as soon as possible; and (iii) provide Lessor with documentation, such as a police report, and accurate information regarding the date of loss or damage, a description of damages, how the loss or damage occurred, and any other pertinent information.

Claim Procedure; Notice of Claim: Lessee shall call Lessor's Customer Support (Scanner) ("Customer Support") at the number set forth below as soon as possible, and report all details of the damage or loss to Customer Support. Customer Support will thereupon confirm coverage option elected by Lessee and prepare a Loss or Damage Form to be reviewed by Lessor's corporate representatives. If such representatives approve the Loss or Damage Form, then Lessee shall not be responsible for any amounts of damages or loss (if elected Option B) or loss only (if elected Option A) in excess of the first \$1,000. Customer Support will then make arrangements for return and/or replacement of the Equipment, or to terminate the Lease Agreement as provided thereunder; provided, however, that in all events Lessee shall be responsible for the first \$1,000 of loss or damage, which amount Lessee hereby authorizes Lessor to charge to Lessee's credit card in the same manner as Rental. If damage or a loss is not reported to Customer Support within 90 days after it occurs, this Waiver shall be null and void and Lessee shall retain full liability for loss or damage in accordance with the terms of the Lease Agreement.

Definitions:

All capitalized terms not otherwise defined herein shall have the meaning ascribed to them in the Lease Agreement. "Equipment" shall have the meaning set forth in the Lease Agreement and each Schedule thereunder. "Lease Agreement" means that certain Master Lease and Licensing Agreement dated entered into between Lessee and Lessor for the rental and/or lease of a Pharmanex Scanner. "Schedule" means all of the Schedules to Master Lease and Licensing Agreement entered into between Lessee and Lessor pursuant to the Lease Agreement.

General:

Payment of Lessee Waiver Payments: Coverage is not effective unless all Lessee Waiver Payments are current and paid prior to a loss or damage occurrence.

Transfer of Waiver: Lessee shall not transfer or assign this Waiver without the prior written consent of Lessor.

Conflict: If there are any conflicts between this Waiver and the Lease Agreement, the Lease Agreement shall govern.

Miscellaneous: Any action brought to enforce this Waiver must be brought in Provo, Utah or in the Federal Courts in Utah. The parties consent to the personal jurisdiction of such courts within Utah and waive any objection to improper venue. No changes, modifications or amendments to any terms or conditions in this Waiver are valid or binding unless agreed to by the parties in writing by their authorized representatives.

In witness whereof, the parties have caused this Damage Waiver to be executed as of the \_\_\_ day of \_\_\_\_\_, 20\_\_.

LESSOR/LICENSOR:

Nu Skin Enterprises United States, Inc.
Address: 75 West Center Street
Provo, Utah 84601
By: \_\_\_\_\_

(1) LESSEE/LICENSEE (the individual) Required:

Name (print or type): \_\_\_\_\_
Signature: \_\_\_\_\_
Address: \_\_\_\_\_
Telephone Number: \_\_\_\_\_
Distributor ID #: \_\_\_\_\_

Scanner equipment: CS \_\_\_\_\_
Laptop equipment: \_\_\_\_\_

(2) LESSEE/LICENSEE (if a corporation):

Name of corporation: \_\_\_\_\_
By: \_\_\_\_\_
Name of person signing: \_\_\_\_\_
Its: \_\_\_\_\_





NU SKIN<sub>®</sub>  
THE DIFFERENCE. DEMONSTRATED.<sup>®</sup>

## SCANNING DO'S AND DON'TS—MARKETING GUIDELINES

The Scanner is a marvelous tool intended to help you with your Pharmanex business when used properly. The following is a general summary of what can and cannot be said about the Scanner. It is not an exhaustive list of all permissible and prohibited claims. If you have a question about what statements can be made about the Scanner, please contact your distributor representative.

The Pharmanex® BioPhotonic Scanner is intended to show consumers that Pharmanex SCS-Certified products can increase carotenoid antioxidants in the skin. The Pharmanex® BioPhotonic Scanner is not intended to be used for medical purposes. It is not a medical device or diagnostic tool of any kind and cannot diagnose, treat, mitigate, cure or prevent any disease or affect the structure or any function of the body, nor is it a health assessment tool.

### DO

- Emphasize that the Scanner is intended to show that Pharmanex SCS-Certified products work
- Clearly separate claims for dietary supplements from claims about the Scanner
- If you encounter consumers who believe that the Scanner can diagnose, prevent or cure disease, immediately make clear to them that the Scanner does not diagnose any disease or precondition of any disease
- Use only information that has been approved by the company
- Refer customers to their doctors for questions regarding the use of Pharmanex products with specific medical conditions
- Refer media questions to Pharmanex® Public Relations (801-345-1000)
- Dress appropriately for the occasion
- Have fun and show your enthusiasm for the product, the business and the ability to live better, longer

### DON'T

- Don't make claims that the Scanner will diagnose any disease
- Don't make claims suggesting any medical use
- Don't claim the Scanner will have an effect on the structure or function of the body
- Don't claim that using the Scanner will prevent disease of any kind
- Don't tell consumers that their antioxidant levels are high, low, or average
- Don't promise specific Skin Carotenoid Scores.
- Don't persuade customers to leave purchasing relationships with other distributors
- Don't perform scans without a scan certificate
- Don't open the Scanner or modify any part of the Scanner
- Don't tell customers that because of their scores, they should seek the advice of their healthcare professional.
- Don't use terms such as, "the Scanner is a noninvasive tool"
- Don't compare the Scanner to other measurement or testing equipment such as cholesterol tests, pregnancy home test kits, or diabetic testing strips or devices. These are all medical devices, the scanner is not.

**FAILURE TO COMPLY WITH ANY OF THESE GUIDELINES CAN RESULT IN SANCTIONS OR THE LOSS OF YOUR SCANNER.**





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## Official Company Communication

**Subject**                      **Official Legal, Regulatory, and Marketing Guidelines regarding the Use of the Pharmanex® BioPhotonic Scanner in Medical or Clinical Settings**

**Background**                      In 2001, Nu Skin Enterprises® (NSE) became the exclusive owner of licensing rights for the use of a technology developed and patented at the University of Utah using Raman Spectroscopy. This licensing was specifically for the measurement of skin carotenoids in non-medical settings for the sale of supplements. At that time, a second license allowing use of Raman Spectroscopy in medical and clinical research settings was issued to a separate company not affiliated with NSE. Their license did not allow them to sell supplements in any environment; however, certain contractual restrictions limited our ability to sell supplements in some medical settings and locations.

**Newly Acquired License**                      On March 7, 2006, NSE acquired additional rights to use the patented technology for the promotion and sales of nutritional supplements in all settings, both medical and non-medical. This newly acquired license contractually allows for placement and use of the BioPhotonic Scanner in medical and clinical settings for the sale of nutritional supplements.

**Business Guidelines**                      The newly acquired license expands the Scanner's field of use, adding credibility and an opportunity to promote the Scanner to new distributors and prospects. Where authorized, distributors are encouraged to work with their local market to ensure that all distributor-driven business initiatives, advertising, or sales materials meet these official guidelines. With this model, distributors are empowered to create their own initiatives within the current compensation plan/business model to leverage the BioPhotonic Scanner.

**Limitations**                      Although the BioPhotonic Scanner can now be located in medical or clinical settings, its regulatory status as a non-medical device remains the same. The Scanner is not a medical device, and cannot be used for the diagnosis of any disease or medical condition. Use of the BioPhotonic Scanner will continue to be limited to the promotion of healthy diet and lifestyle habits in any location, and then, only in connection with the sale of Pharmanex® nutritional and dietary supplements.

Please be aware that in some markets, the placement of the BioPhotonic Scanner in a medical or clinical setting is prohibited by local regulation. Any questions can be directed to your local office distributor representative.

**Legal/Regulatory  
Guidelines**

1. All Distributors must agree to abide by the BioPhotonic Scanner marketing guidance documents: a) Prohibited Claims (attachment 1); b) Marketing Guidelines (attachment 2).
2. With regards to physicians and other health care professionals, the following additional requirements apply:
  - a. BioPhotonic Scanner results, documentation, and nutritional advice related to the promotion of Pharmanex products must be maintained and reported separately from any medical reports, diagnostic charts and other medical records generated by physicians or other medical professionals in connection with their medical or health care practice.
  - b. Physicians and other health care professionals are responsible for compliance with state administrative rules, federal regulations, or local licensing boards, if applicable, in connection with their operation of the BioPhotonic Scanner.
  - c. Physicians and other health care professionals are responsible for compliance with health care privacy requirements, if applicable, including HIPAA, in connection with their operation of the BioPhotonic Scanner.
  - d. Physicians and other health care professionals are responsible for compliance with the Stark Legislation, Fraud and Abuse or any other federal or state anti-kickback regulations, if applicable, in connection with their operation of the BioPhotonic Scanner and promotion of Pharmanex products.

**Created by:** J. Engemann, T. Whitehead, E. Anderson  
**Approved by:** T. Whitehead, J. Beeson

## **ATTACHMENT 1**

### **Pharmanex® BioPhotonic Scanner Prohibited Claims**

The BioPhotonic Scanner measures carotenoid antioxidant levels in skin tissue of generally healthy people. The scanner measurement will enable generally healthy consumers to assess the effect of LifePak® in their diets as they choose to make dietary changes that will increase their antioxidant levels.

Lessee cannot make any of the following claims about the scanner on any website, in any written or oral presentations, in speeches, in PowerPoint presentations, on flyers, in brochures, in descriptions, etc.

1. Do not claim that the scanner is a medical device or that it is intended for medical use. Do not refer to it as a device at any time.
2. Do not claim that the scanner is a diagnostic tool of any kind. Do not represent that the scanner can tell consumers that their skin carotenoid antioxidant levels are high, low, normal, or optimal. You can tell consumers that the scanner can measure the level of carotenoids in the body associated with the consumption of LifePak®.
3. Do not claim that the scanner can diagnose a disease or pre-condition to a disease.
4. Do not claim that the scanner can, by itself, contribute to good health or prevent poor health. The scanner is not a health assessment tool of any kind and do not represent it as such.
5. If customers have incorrect ideas about what the scanner can do, correct the misunderstanding immediately. For example, if someone says that they heard that the scanner helped diagnose an illness or helped someone prevent an illness, firmly tell them that their understanding is incorrect because the scanner cannot treat or diagnose a medical condition or illness or promote good health in any way. Then tell them what the scanner can do: namely, measure the level of carotenoids associated with the use of LifePak®.
6. Do not claim that the scanner can diagnose a condition or affect the structure or function of the body. For example, do not say that the scanner score will let consumers know if their conditions are healthy or unhealthy.
7. Do not claim that medical intervention is necessary or unnecessary because of a scanner score. Consumers should always be advised to consult their health care professionals before they make significant changes in their diets or lifestyles, but the scanner score, by itself, will not, under any circumstances, let consumers know if medical intervention is necessary.
8. Do not under any circumstances make any statements that claim or imply that any Pharmanex® product, service, or tool can prevent, diagnose, cure, treat or mitigate any disease or symptoms of disease.

The foregoing is a general summary of what can and cannot be said about the scanner and other Pharmanex® products. The summary is not intended to be an exhaustive list of all prohibited claims.

Nu Skin and Pharmanex will continue to review Lessee websites and other materials and will, when necessary, take disciplinary action against distributors found to be in violation of the rules up to and including termination of distributorships.

## **ATTACHMENT 2**

### **Pharmanex® BioPhotonic Scanner Marketing Guidelines**

The scanner is a marvelous new tool intended to help you with your Pharmanex business when used properly. The following is a general summary of what can and cannot be said about the scanner. It is not an exhaustive list of all permissible and prohibited claims. If you have a question about what statements can be made about the scanner, please contact your distributor representative.

The Pharmanex® BioPhotonic Scanner is intended to show consumers that LifePak® can increase carotenoid antioxidants in skin tissue. The Pharmanex® BioPhotonic Scanner is not intended to be used for medical purposes. It is not a medical device or diagnostic tool of any kind and cannot diagnose, treat, mitigate, cure or prevent any disease or affect the structure or any function of the body, nor is it a health assessment tool.

#### **DO**

- Emphasize that the scanner is intended to show that LifePak® works
- Limit any health-related claims to ones involving proper nutrition
- Clearly separate claims for dietary supplements from claims about the scanner
- If you encounter consumers who believe that the scanner can diagnose, prevent or cure disease, immediately make clear to them that the scanner does not diagnose any disease or precondition of any disease
- Use only information that has been approved by the company

#### **DON'T**

- Don't make claims that the scanner will diagnose any disease
- Don't make claims suggesting any medical use
- Don't claim the scanner will have an effect on the structure or function of the body
- Don't claim that using the scanner will prevent disease of any kind
- Don't tell consumers that their antioxidant levels are high, low, or average

### **Pharmanex® BioPhotonic Scanner Tips for Professional Conduct**

The following guiding principles should be used when approaching medical professionals about the Pharmanex® BioPhotonic Scanner:

- Respect their limited time by preparing in advance and being concise in your message.
- Establish the science behind the scanner and build credibility. Be prepared with appropriate information to field general questions regarding the technology, Scanner score/antioxidant status correlation, safety, and clinical research.
- Help them understand how the Scanner can help their patients' health through proper nutrition and supplementation. They will be interested in offering their patient's quality products and information to help them make wise health decisions.
- When discussing the business opportunity, set accurate and realistic expectations regarding possible results of implementing a Scanner program in their office.
- When placing a Scanner in a medical setting, office staff should be given proper training and support materials to ensure correct operation.