



1           **1.5**     At this time, the Attorney General has determined to conclude his inquiry and  
2     LAWL has agreed to a set of practices regarding certain aspects of its business.

3           **1.6**     The Parties agree this Assurance does not constitute evidence or an admission by  
4     any Party regarding the existence or non-existence of any issue, fact, or violation of any law  
5     alleged by Washington; and

6           **1.7**     LAWL recognizes and states that this Assurance is entered into voluntarily and  
7     that no promises, representations or threats have been made by the Attorney General's Office or  
8     any member, officer, agent or representative thereof to induce it to enter into this Assurance,  
9     except for the promises and representations provided herein; and

10          **1.8**     LAWL further agrees its payments made or due pursuant to this Assurance are not  
11     amenable to discharge in bankruptcy and it shall not seek or support their discharge in bankruptcy,  
12     nor oppose their being determined not amenable to discharge in bankruptcy; and

13          **1.9**     LAWL further agrees its payments made or due pursuant to this Assurance are not  
14     preferential transfers of assets and it shall not make nor support arguments to the contrary in  
15     bankruptcy court or elsewhere.

16     **2.     BASIS OF THE ATTORNEY GENERAL'S INQUIRY/STATEMENT BY LAWL**

17          **2.1**     The Attorney General commenced an investigation into LAWL's marketing and  
18     sales practices.

19          **2.2**     The Attorney General asserted that LAWL (1) failed to sufficiently disclose the  
20     cost of recommended or important but optional products to consumers before consumers signed  
21     contracts for LAWL's weight loss program and (2) LAWL represented to consumers, after they  
22     had signed contracts for LAWL's weight loss program, that products that LAWL had previously  
23     told consumers before they signed contracts were recommended or important but optional were  
24     necessary, essential, or mandatory.

25     ///

26     ///

1           **2.3**    The Attorney General also asserted that LAWL did not have competent and  
2 reliable scientific evidence upon which to base its claims that it made for certain of its nutritional  
3 supplements.

4           **2.4**    LAWL stated that it had given consumers proper disclosures as to the costs of  
5 recommended but optional products; that it had been consistent in its representations to  
6 consumers before and after they sign contracts for weight loss services as to whether products  
7 are, on the one hand, recommended but optional or, on the other hand, necessary, essential or  
8 mandatory; and that it has had a reasonable basis substantiating claims made concerning its  
9 nutritional supplements. LAWL and the Attorney General entered into an Assurance of  
10 Discontinuance (the "2005 AOD") filed December 23, 2005 in *In the Matter of L A Weight Loss*  
11 *Franchise Company, and NWM, Inc.*, Spokane County Superior Court Cause No. 05206072-1.

12           **2.5**    The Attorney General has investigated LAWL's compliance with the 2005 AOD,  
13 and has informed LAWL of what the Attorney General believes are failures to comply with the  
14 2005 AOD. LAWL states that it believes that it has complied with the 2005 AOD but is  
15 nonetheless willing to enter into the terms of this Assurance.

16           **2.6**    This Assurance supersedes the 2005 AOD, and the 2005 AOD shall have no  
17 further force or effect upon the effective date of this Assurance.

18 **3.    SALES PRACTICES**

19           **3.1**    The provisions of this Section 3 of this Assurance shall apply to LAWL and to its  
20 owners, directors, successors, assigns, transferees, officers, agents, partners, servants, employees  
21 and representatives, and all other persons or entities that acted in concert or participated with  
22 LAWL.

23           **3.2**    LAWL shall within one week of the effective date of this Assurance provide to its  
24 managers having responsibility for operations within the State of Washington a copy of a  
25 memorandum setting out the pertinent provisions of this Assurance.

26           **3.3**    The following definitions shall apply to this Assurance:

1           **a.**           “Advertise” or “Advertisement” shall refer to any direct or  
2 indirect representation or promotional device used to promote the sale of products or services  
3 and/or to educate, inform or attract customers, including but not limited to those that are  
4 telephonic, electronic, digital, oral, visual, aural, written, video or printed.

5           **b.**           “Product” shall in addition to its ordinary meaning also refer to the LA  
6 Lites and any dietary supplements sold by LAWL at any relevant time.

7           **c.**           “Consumer” shall in addition to its ordinary meaning also refer to any  
8 person who, as represented at any time to LAWL, has or had a telephone number having the  
9 prefix 425, 360, 206, 509 or 253, or an address in Washington.

10           **d.**           “Competent and Reliable Scientific Evidence” shall mean tests,  
11 analyses, research, studies, or other evidence based on the expertise of professionals in the  
12 relevant area, that have been conducted and evaluated in an objective manner by persons  
13 qualified to do so, using procedures generally accepted in the profession to yield accurate and  
14 reliable results.

15           **3.4**       LAWL and its owners, directors, successors, assigns, transferees, officers,  
16 agents, partners, servants, employees, representatives, and all other persons or entities acting in  
17 concert or participating with LAWL in the context of conducting LAWL’s weight loss  
18 program business, shall not directly or indirectly engage in the following acts or practices in  
19 the State of Washington:

20           **a.**           representing, in any manner, expressly or by implication, to Consumers  
21 in the first instance that a particular product or service, including but not limited to LA Lites  
22 and LA Supplements, is not an important, key, necessary, required, vital or substantial  
23 component of LAWL’s weight loss program and then later representing, in any manner,  
24 expressly or by implication, to those Consumers that the particular product or service is an  
25 important, key, necessary, required, vital or substantial component of LAWL’s weight loss  
26 program;

1           **b.**       representing, in any manner, expressly or by implication, to Consumers  
2 in the first instance that they do not need a particular product or service, including but not  
3 limited to LA Lites and LA Supplements, to succeed with LAWL's weight loss program and  
4 then later representing, in any manner, expressly or by implication, to those Consumers that  
5 they need that particular product or service to be successful with LAWL's weight loss  
6 program;

7           **c.**       failing to clearly and conspicuously disclose all material terms and  
8 conditions of LAWL's weight loss program in writing before Consumers enter into a contract,  
9 including full and complete disclosure of those program and product costs attributable to  
10 services and products that constitute a key, necessary, vital or substantial component of the  
11 program; guarantees; rebates; cancellation policies, and/or refund policies LAWL may offer to  
12 Consumers;

13           **d.**       representing, in any manner, expressly or by implication, any health or  
14 weight loss benefit, effect, performance, safety or efficacy of any dietary supplement unless at  
15 the time the representation is made LAWL possesses and relies upon Competent and Reliable  
16 Scientific Evidence that substantiates the representation;

17           **e.**       making any nutrient content claim or health claim regarding any food  
18 product except in accordance with the applicable regulations of the U.S. Food and Drug  
19 Administration;

20           **f.**       misrepresenting, in any manner, directly or by implication, any offers,  
21 guarantees, rebates or the costs involved with successfully participating in LAWL's weight  
22 loss program, including the costs of any goods or services which are represented to be an  
23 important, key, necessary, vital or substantial component of the weight loss program;

24           **g.**       failing to clearly and conspicuously disclose material limitations of any  
25 offer, guarantee or cost of a program or product in reasonable proximity to the language it  
26 modifies.

1           **3.5**     LAWL shall provide to each Consumer who visits a NWM-owned and  
2 operated weight loss center in Washington with the purpose of considering enrollment in a  
3 LAWL weight loss program a written description, in contract form or otherwise, of all  
4 material terms and conditions of LAWL's weight loss program, including a full and complete  
5 explanation of those program and product costs attributable to services and products that  
6 constitute a key, necessary, vital or substantial component of the program; guarantees;  
7 rebates; cancellation policies and/or refund policies. LAWL shall maintain for five years after  
8 execution of this Assurance copies of all such confirmations that will demonstrate compliance  
9 with the requirements of this paragraph and, upon written request, make them available within  
10 thirty business days to the Washington State Attorney General.

11           **3.6**     LAWL and its owners, directors, successors, assigns, transferees, officers,  
12 agents, servants, employees, representatives, and all other persons or entities acting in concert  
13 or participating with LAWL shall in good faith respond to Consumers' requests for refunds,  
14 requests to cancel, complaints or inquiries concerning the operation of LAWL's weight loss  
15 program business, or the products and services related to that program. LAWL shall not be  
16 required to disclose to Consumers information about its products or operations that LAWL in  
17 good faith considers to be privileged, proprietary or otherwise confidential.

18     **4.     RESTITUTION**

19           **4.1**     Pursuant to RCW 19.86.080, LAWL shall make restitution as follows:

20           **a.**     LAWL shall refund up to a total amount not to exceed \$50,000 the costs  
21 (including any applicable taxes) of enrollment (including "Personal Enhancement Package" or  
22 any "non-refundable set up fee" costs, but not including the costs of food products or dietary  
23 supplements) to all Consumers who:

24                   **(i)**     enrolled with an NWM-owned and operated weight loss center in  
25                   Washington at any time during the period from December 23, 2005, through  
26                   August 31, 2006, and

1                   (ii)     have submitted a written request for a refund to LAWL or the  
2                   Attorney General's Office within 30 days of the effective date of this Assurance  
3                   alleging and providing reasonable support for the claim that they were misled  
4                   about the terms of enrolling in the program, service guarantee or rebate; and

5                   (iii)    have not previously received a full refund of the costs of  
6                   enrollment.

7                   b.     If LAWL believes that a Consumer should not be entitled to a requested  
8                   refund pursuant to paragraph 4.1.b(ii) of this Assurance, LAWL may provide information to  
9                   the Attorney General in support of its belief within ten business days of LAWL being notified  
10                  of the Consumer's refund request.

11                  c.     With respect to any refund otherwise payable under paragraphs 4.1,  
12                  LAWL may condition the refund on termination of the Consumer's enrollment with the  
13                  program and may credit any partial refund of enrollment costs the Consumer previously  
14                  received from LAWL against the required cost refund. In addition, whether Consumers' claims  
15                  that they were misled are reasonably supported shall be the sole determination of the Attorney  
16                  General and the Attorney General's determination on this issue shall be a final determination  
17                  without appeal.

18                  d.     With respect to 4.1.a of this Assurance, the total amount that LAWL  
19                  may be required to pay as refunds to Consumers pursuant to 4.1.a shall not exceed \$50,000. If,  
20                  after the 30-day period provided by 4.1.a(ii) has elapsed and the total amount of refunds to be  
21                  paid pursuant to 4.1.a is determined to be less than the 50,000 limit, then LAWL shall pay  
22                  Consumers their full refunds within 90 days after the total amount of refunds was determined  
23                  not to exceed the \$50,000 limit and as provided by paragraph 4.3 of this Assurance. On the  
24                  other hand, if, after the 90-day period provided by paragraph 4.1.b(ii) has elapsed and the total  
25                  amount of refunds to be paid pursuant paragraph 4.1.b is determined to exceed the \$50,000  
26                  limit, then LAWL shall pay Consumers their refunds on a pro rata basis within 90 days after

1 the total amount of refunds was determined to exceed the \$50,000 limit and as provided by  
2 paragraph 4.3 of this Assurance.

3       **4.2**     LAWL shall make payment to each Consumer who is entitled to it pursuant to  
4 paragraph 4.1 of this Assurance within 90 days of the effective date of this Assurance. Payment  
5 to Consumers shall be made by mailing via first class postage to the current home address, and if  
6 unknown to the last known address, a check payable to the Consumer for the amounts due  
7 pursuant to this Assurance. LAWL shall submit to Washington, no later than 120 days after the  
8 effective date of this Assurance, a list of the name, last known address, and amount of refund for  
9 each Consumer whose refund check mailing was returned to LAWL as undeliverable and the  
10 refund checks that were to be delivered to the listed Consumers, and LAWL shall have no further  
11 obligation to deliver refund checks to the listed Consumers. Washington may then attempt to  
12 locate the listed Consumers and deliver the refund checks to them for an additional 60-day period,  
13 after which 60-day period Washington shall return any remaining undeliverable checks to LAWL.

14       **4.3**     LAWL shall submit to Washington, no later than 120 days after the effective date  
15 of this Assurance, a certification under penalty of perjury by an officer of LAWL certifying that  
16 LAWL complied with the provisions of this Assurance, setting forth the manner and extent of  
17 their compliance and having attached to the statement exhibits and supporting documentation,  
18 except that LAWL need not disclose in the certification or attachments thereto the identities of the  
19 Consumers to whom refunds were made.

20       **4.4**     LAWL shall be responsible for any and all costs they may incur associated with  
21 providing refunds to Consumers pursuant to this Assurance.

22 **5.     ATTORNEY'S FEES AND COSTS**

23       **5.1**     Pursuant to RCW 19.86.080, Washington shall recover and LAWL shall pay costs  
24 and reasonable attorneys' fees incurred by Washington in pursuing this matter in the amount of  
25 \$40,000 pursuant to Section 6 of this Assurance. This payment includes costs and reasonable  
26 attorneys' fees to date, plus an additional amount for future monitoring. LAWL's payment of

1 attorneys' fees and costs pursuant to this Assurance shall in no way prevent, prohibit or otherwise  
2 prejudice Washington's ability to seek payment of any remaining unpaid fees and costs incurred  
3 in this matter from any other person.

4 **5.2** If not paid when due, interest will accrue on any unpaid balance of attorneys' fees  
5 and costs at the rate of twelve percent (12%) per annum.

6 **5.3** In any successful action to enforce this Assurance against LAWL, LAWL shall  
7 bear Washington's reasonable costs, including reasonable attorneys' fees.

8 **6. TERMS OF PAYMENT**

9 **6.1** LAWL shall pay Washington a total of \$40,000 as of the effective date of this  
10 Assurance, or at such other time as agreed to by Washington in writing. LAWL shall make all  
11 payments to Washington by one or more checks payable to the Attorney General - State of  
12 Washington, and shall be mailed or delivered to the Office of the Attorney General, Consumer  
13 Protection Division, 800 5<sup>th</sup> Avenue, Suite 2000, Seattle, Washington, 98164-1012, Attention:  
14 Cynthia Lockridge, unless otherwise agreed to in writing by Washington.

15 **6.2** LAWL's failure to timely make a payment, without written agreement by  
16 Washington, shall be a material breach of this Assurance.

17 **7. ENFORCEMENT**

18 **7.1** Under no circumstances shall this Assurance, or the name of the State of  
19 Washington, the Office of the Attorney General, the Consumer Protection Division or any of their  
20 employees or representatives be used by LAWL or any of its owners, directors, successors,  
21 assigns, transferees, officers, agents, servants, employees, representatives, and all other persons  
22 or entities in active concert or participation with LAWL, in connection with any selling,  
23 advertising, or promotion of products or services, or as an endorsement or approval of LAWL's  
24 acts, practices or conduct of business.

25 **7.2** Washington shall be permitted, upon thirty (30) days' advance notice to LAWL,  
26 to access, inspect and/or copy, pursuant to RCW 19.86.110, all relevant and non-privileged

1 business records or documents in possession, custody or under control of LAWL to monitor  
2 compliance with this Assurance, provided that the inspection and copying shall be done in such  
3 a way as to avoid unreasonable disruption of LAWL's business activities.

4       **7.3** Washington shall be permitted to question LAWL, or any officer, director,  
5 agent or employee of LAWL by deposition, pursuant to the provisions of RCW 19.86, to  
6 monitor compliance with this Assurance.

7       **7.4** LAWL shall fully cooperate with Washington and other civil regulatory  
8 agencies in any investigation of any other person who in any way manufactured, marketed or  
9 sold, or substantially assisted in the manufacture, marketing or sale of any of LAWL's  
10 products or services. LAWL also shall fully cooperate with Washington and other civil  
11 regulatory agencies in any investigation of any other agent, employee, independent contractor  
12 or representative of LAWL. LAWL's failure to fully cooperate as required by this  
13 paragraph 7.4 shall be a material breach of this Assurance.

14       **7.5** Nothing in this Assurance shall be construed to limit or bar any other  
15 governmental entity or person from pursuing other available remedies against LAWL or any  
16 other person. And nothing in this Assurance shall be construed to limit or bar any potential  
17 claims between NWM and any other party.

18       **7.6** Jurisdiction is retained by this court for the purpose of enabling any party to this  
19 Assurance to apply to the court for enforcement of or compliance with this Assurance, to  
20 punish violations thereof or clarify the terms of this Assurance.

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

