

MusclePharm Corp  
Form 10-K/A  
October 31, 2014

**UNITED STATES**

**SECURITIES AND EXCHANGE COMMISSION**

**Washington, D.C. 20549**

**FORM 10-K/A**

**Amendment No. 1**

**Annual Report Pursuant to Section 13 or 15(d) of the Securities Exchange Act of 1934**

For the Fiscal Year ended December 31, 2012

**Commission File Number – 000-53166**

**MusclePharm Corporation**

**(Exact name of registrant as specified in its charter)**

**Nevada** **77-0664193**  
**(State or other jurisdiction of (I.R.S. Employer**  
**incorporation or organization) Identification No.)**

**4721 Ironton Street, Building A**

**Denver, Colorado** **80239**  
**(Address of principal executive offices) (Zip code)**

**(303) 396-6100**

**(Registrant's telephone number, including area code)**

**Securities registered pursuant to Section 12(g) of the Act:**

**Title of each class**

Common Stock, Par Value \$0.001 Per Share

Indicated by check mark if the registrant is a well-known seasoned issuer, as defined in Rule 405 of the Securities Act.  Yes  No

Indicate by check mark if the registrant is not required to file reports pursuant to Section 13 or Section 15(d) of the Act.  Yes  No

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

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate website, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files)  Yes  No

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.

Indicated by check mark whether the registrant is a large accelerated file, an accelerated file, a non-accelerated filer, or a smaller reporting company. (Check one):

Large accelerated filer  Accelerated filer

Non-accelerated filer  Smaller reporting company

Indicated by check mark whether the registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).  Yes  No

Aggregate market value of the voting common stock held by non-affiliates of the registrant at June 30, 2012:  
\$14,931,500

Number of shares of the registrant's common stock outstanding at March 29, 2013: 6,776,647

**DOCUMENTS INCORPORATED BY REFERENCE:**

None.

## Explanatory Note

MusclePharm Corporation (the “Company”, “we” or “us”) is filing this Amendment No. 1 on Form 10-K/A (this “Amendment”) to amend our Annual Report on Form 10-K for the year ended December 31, 2012, originally filed with the Securities and Exchange Commission (the “SEC”) on April 1, 2013 (the “Original Filing”) to include revised information required by Item 11 of Part III of Form 10-K, in particular the “Other Compensation” column which is a part of the “Summary Compensation Table for 2012” section and include revised information required by Item 13 of Part III of Form 10-K, in particular the “Other Agreements” section.

As previously disclosed in the Company’s Current Report on Form 8-K filed on September 30, 2013 following requests for information received by the Company from the Denver Regional Office of the SEC (the “Staff”), the Company undertook to review, under the guidance of the Audit Committee, its disclosures related to compensation, benefits and perquisites in several of its prior Annual Reports on Form 10-K. The Company has provided information to the Staff in response to its inquiries. In the process of reviewing its records and preparing such submissions, the Company has determined to revise its previously filed compensation disclosure for the Fiscal Years ended December 31, 2010, 2011, 2012 and 2013 (“Fiscal Years 2010 - 2013”). The Company determined that it improperly excluded certain items that should have been reported in the Summary Compensation Tables under Item 402(b) of Regulation S-K in the Company’s Annual Reports for the Fiscal Years ended December 31, 2010 – 2013. The Company is filing this amendment to Form 10-K for the year ended 2012 (which adjusts information in the Summary Compensation Tables in Item 3 as disclosed for the Fiscal Years 2010-2013) to revise certain non-financial statement disclosures in the Summary Compensation Tables for Fiscal Years 2010 –2013. This amendment does not include a restatement of the audited financial statements of the Company.

In accordance with Rule 12b-15 under the Securities Exchange Act of 1934, as amended, Part III, Item 11 and Item 13 of the Original Filing are hereby amended and restated in their entirety. This Amendment No. 1 does not amend or otherwise update any other information in the Original Filing. Accordingly, this Amendment should be read in conjunction with the Original Filing, and with our filings with the SEC subsequent to the Original Filing.

**MusclePharm Corporation**

**Form 10-K/A**

**For the Year Ended December 31, 2012**

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## Forward-Looking Statements

Certain statements contained in this report on Form 10-K/A are not statements of historical fact and constitute forward-looking statements within the meaning of the various provisions of the Securities Act of 1933, as amended, (the “Securities Act”) and the Securities Exchange Act of 1934, as amended (the “Exchange Act”), including, without limitation, the statements specifically identified as forward-looking statements within this report. Many of these statements contain risk factors as well. In addition, certain statements in our future filings with the SEC, in press releases, and in oral and written statements made by or with our approval which are not statements of historical fact constitute forward-looking statements within the meaning of the Securities Act and the Exchange Act. Examples of forward-looking statements, include, but are not limited to: (i) projections of capital expenditures, revenues, income or loss, earnings or loss per share, capital structure, and other financial items, (ii) statements of our plans and objectives or our management or board of directors including those relating to planned development of future products, (iii) statements of future economic performance and (iv) statements of assumptions underlying such statements. Words such as “believes,” “anticipates,” “expects,” “intends,” “targeted,” “may,” “will” and similar expressions are intended to identify forward-looking statements but are not the exclusive means of identifying such statements. Important factors that could cause actual results to differ materially from the forward looking statements include, but are not limited to:

- significant competition in our industry;

- unfavorable publicity or consumer perception of our products;

- increases in the cost of borrowings and limitations on availability of additional debt or equity capital;

- incurrence of material product liability and product recall costs;

- loss or retirement of directors or key members of management;

- costs of compliance and our failure to comply with new and existing governmental regulations including, but not limited to, tax regulations;

- costs of litigation and the failure to successfully defend lawsuits and other claims against us;

- economic, political and other risks associated with our international operations;

- failure to keep pace with the demands of our customers for new products and services;

- disruptions in our manufacturing system or losses of manufacturing certifications;
- disruptions in our distribution network;
- lack of long-term experience with human consumption of ingredients in some of our products;
- failure to adequately protect or enforce our intellectual property rights against competitors;
- changes in raw material costs and pricing of our products;
- failure to successfully execute our growth strategy, including any delays in our planned future growth;
- damage or interruption to our information systems;
- impact of current economic conditions on our business;
- natural disasters, unusually adverse weather conditions, pandemic outbreaks, boycotts and geo-political events; and
- failure to maintain effective internal controls.

Consequently, forward-looking statements should be regarded solely as our current plans, estimates and beliefs. You should not place undue reliance on forward-looking statements. We cannot guarantee future results, events, levels of activity, performance or achievements. We do not undertake and specifically decline any obligation to update, republish or revise forward-looking statements to reflect future events or circumstances or to reflect the occurrences of unanticipated events.

## **PART I**

### **Item 1. Business**

#### General

MusclePharm Corporation, a Nevada corporation (“MusclePharm”, the “Company”, “we”, “us”, or “our”) was incorporated in the state of Nevada on August 4, 2006, under the name “Tone in Twenty” for the purpose of engaging in the business of providing personal fitness training using isometric techniques. On February 18, 2010, Tone in Twenty acquired all of the issued and outstanding equity and voting interests of Muscle Pharm, LLC, a Colorado limited liability company, in exchange for 30,589 shares of its common stock. As a result of this transaction, Muscle Pharm, LLC became a wholly owned subsidiary of Tone in Twenty, and Tone in Twenty changed its name to “MusclePharm Corporation.” Our principal executive offices are located at 4721 Ironton Street, Building A, Denver, Colorado 80239 and our telephone number is (303) 396-6100.

We develop, market and sell athlete-focused, high quality nutritional supplements primarily to specialty resellers. Our products have been formulated to enhance active fitness regimens, including muscle building, weight loss and maintaining general fitness. Our nutritional supplements are available for purchase in over 10,500 U.S. retail outlets, including Dick’s Sporting Goods, GNC, Vitamin Shoppe and Vitamin World. We also sell our products to over 100 online channels, including bodybuilding.com, amazon.com, gnc.com and vitacost.com. Internationally, our nutritional supplements are sold in approximately 90 countries, and we expect that international sales will be a significant portion of our sales for the foreseeable future.

We started formulating our nutritional supplements in 2008 for consumption by active individuals, high performance athletes and fitness enthusiasts. We launched our sales and marketing programs in late 2008 through our internal sales executives and staff targeting specialty retail distributors.

We supply our nutritional supplements to elite athletes on teams in the National Football League, Major League Baseball and the National Basketball Association, as well as Ultimate Fighting Championship fighters. While these endorsers and professional sports teams use our products, no endorsement by any of them as to the merits of our securities should be inferred.



Our products were created through our six-stage process using the expertise of distinguished nutritional scientists we have retained and they are typically field tested using a pool of several elite athletes on various teams in the National Football League, Major League Baseball and National Basketball Association, as well as Ultimate Fighting Championship fighters. We do not directly manufacturer or ship our products to most of our customers. Rather, we outsource our manufacturing to non-affiliated third parties who fulfill our orders and ship products directly to our customers.

We have recently experienced significant growth in our product sales. Our net sales for the years ended December 31, 2012 and 2011 were \$67.1 million and \$17.2 million, respectively. Additionally, during the second quarter of 2012, we commenced operations in Ontario, Canada, through our subsidiary Canada MusclePharm Enterprises Corp.

At the 2012 Bodybuilding.com Supplement Awards, we received three Awards of Excellence; we received (i) the “Brand of the Year” award, (ii) the “Packaging of the Year” award, and (iii) the “Pre-Workout Supplement of the Year” award for Assault™.

Our headquarters in Denver, Colorado has a state-of-the-art over 30,300 square feet athletic facility with a medical and clinical testing department, complete with equipment for measuring and conducting athletic clinical studies and supporting athletes. Our medical and clinical professionals consist of several nationally recognized medical doctors and nutritional experts who oversee our product research, formulation, efficacy analysis and testing.

### Recent Developments

#### *Reverse Stock Split and Increase in Number of Authorized Shares of Common Stock*

On November 26, 2012, we (i) effected a 1-for-850 reverse stock split of our common stock, including a proportionate reduction in the number of authorized shares of our common stock from 2.36 billion shares to 2.8 million shares of common stock, and (ii) amended our articles of incorporation to increase the number of authorized shares of common stock (post reverse stock split) from 2,941,177 to 100 million effective November 27, 2012. All share and per share amounts in this document have been changed to give effect to the reverse stock split.

*Conversion of Warrants into Common Stock*

In late September 2012, we issued 512,675 shares of our common stock to several accredited investors pursuant to conversions of warrants to purchase an aggregate of 723,747 shares of our common stock. As a result of these warrant conversions and other extinguishments of derivative liabilities during the quarter ended September 30, 2012, our stockholders' deficit decreased from \$11,013,113 at June 30, 2012 to \$7,297,593 at September 30, 2012 and our derivative liabilities decreased from \$7,908,960 at June 30, 2012 to \$24,889 at September 30, 2012. On December 5, 2012, we converted a warrant exercisable for 4,902 shares of common stock into 3,677 shares of our common stock. Thereafter, our derivative liability was reduced to approximately \$300 as of December 5, 2012.

*Registered Direct Offerings*

On February 4, 2013, we completed the final closing of our registered direct offering of an aggregate of 1,500,000 shares of our Series D Convertible Preferred Stock, at a public offering price of \$8.00 per share pursuant to an offering registered with the SEC. Each share of Series D Convertible Preferred Stock is convertible into two shares of common stock, subject to adjustment. Our net proceeds from the offering were approximately \$10.8 million after placement agent discounts, and other offering expenses of \$1.2 million. Net proceeds from this offering were used to reduce indebtedness and for other corporate purposes.

As of the date of this report, 1,176,125 Series D shares have been converted into 2,352,250 shares of the Company's common stock and 323,875 shares of Series D preferred stock remain outstanding.

*Private Placement of Common Stock*

On March 26, 2013, the Company entered into subscription agreements with non-affiliated accredited investors for the issuance of 705,882 shares of common stock pursuant to exemptions from registration under federal and state securities laws. The shares of common stock were sold for \$8.50 per share. The gross proceeds to the Company of \$6.0 million were reduced by commissions and issuance costs of \$115,000.

An unaudited pro-forma balance sheet showing the effect of these capital raises is shown below:

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	December 31, 2012	Total Adjustment (unaudited)	Pro Forma (unaudited)
Assets			
Assets:			
Cash	\$-	\$6,296,669	\$6,296,669
Current assets	4,949,881	-	4,949,881
Non-current assets	1,816,846	-	1,816,846
Total assets	\$6,766,727	\$6,296,669	\$13,063,396
Liabilities and Stockholders' Deficit			
Liabilities:			
Current liabilities	\$16,520,456	\$(8,238,165 )	\$8,282,291
Non-current liabilities	4,523	-	4,523
Total Liabilities	\$16,524,979	\$(8,238,165 )	\$8,286,814
Stockholders' Deficit:			
Series A, Convertible Preferred Stock	-	-	-
Series B, Preferred Stock	-	-	-
Series C, Convertible Preferred Stock	-	-	-
Series D, Convertible Preferred Stock	-	324	324
Common Stock	2,778	2,972	5,750
Treasury Stock, at cost	(460,978 )	-	(460,978 )
Additional paid-in capital	54,817,341	16,698,755	71,516,096
Accumulated deficit	(64,109,476)	(2,167,217 )	(66,276,693)
Accumulated other comprehensive income	(7,917 )	-	(7,917 )
Total Stockholders' Deficit	(9,758,252 )	14,534,834	4,776,582
Total Liabilities and Stockholders' Deficit	\$6,766,727	\$6,296,669	\$13,063,396

### Our Growth Strategy

Our primary growth strategy is to:

· increase our product distribution and sales through increased market penetrations both domestically and internationally;

· increase our margins by focusing on streamlining our operations and seeking operating efficiencies in all areas of our operations;

· continue to conduct additional testing of the safety and efficacy of our products and formulate new products; and

· increase awareness of our products by increasing our marketing and branding opportunities through endorsements, sponsorships and brand extensions.

### Our Core Marketing Strategy

Our core marketing strategy is to brand MusclePharm as the “must have” fitness brand for workout enthusiasts and elite athletes. We seek to be known as The Athletes Company<sup>®</sup>, run by athletes who create their products for other athletes, both professional and otherwise. We believe that our marketing mix of endorsers, sponsorships and providing sample products for our retail resellers to use is an optimal strategy to increase sales.

### Sponsorships and Promotions

Since 2011, we have been the official supplement provider and sponsor of the Ultimate Fighting Championship, or UFC. Our sponsorship includes prominent logo placement on the fighting mat, and our branding can be seen on FOX Television Stations, FX Networks, FUEL TV and Pay-Per-View television worldwide. The UFC fighters we sponsor feature our brand on their uniforms and we also extensively advertise at the UFC events.

We are also currently engaged in various in-store promotions, including point-of-purchase stands, aisle displays in retail outlets, as well as sample demonstrations in Dick’s Sporting Goods, GNC, Vitamin World and Vitamin Shoppe.

In 2011, we launched an advanced website in seeking to tap into the social networking world and to further our brand and consumer awareness. The information in our website is not part of this report. We have included our website address as a factual reference and do not intend it to be an active link to our website. Also, we currently have over 617,000 fans combined between our company and executive officer Facebook and Twitter accounts.

### Industry Overview

We operate within the large and growing U.S. nutritional supplements industry. According to Nutrition Business Journal's 2012 Supplement Business Report, our industry generated over \$30 billion in sales in 2011 and \$28.1 billion in 2010, and is projected to grow at an average annual rate of approximately 6.0% through 2020.

According to Nutrition Business Journal, sports nutrition products represented approximately 12% of the total sales in the U.S. nutritional supplements industry in 2011, and the category is expected to grow at a 9.1% compound annual growth rate (or CAGR) from 2012 to 2020, representing the fastest growing product category in the nutritional supplements industry.

We believe there are several key demographic, healthcare and lifestyle trends driving the continued growth of our industry. These trends include:

Increasing awareness of nutritional supplements across major age and lifestyle segments of the U.S. population. We believe that awareness of the benefits of nutritional supplements is growing among active, younger populations, providing the foundation for our future consumer base. In addition, the average age of the U.S. population is increasing and data from the United States Census Bureau indicates that the number of Americans age 65 or older is expected to increase by approximately 36% from 2010 to 2020. We believe that these consumers are likely to increasingly use nutritional supplements and generally have higher levels of disposable income to pursue healthier lifestyles.

Increased focus on fitness and healthy living. We believe that consumers are trying to lead more active lifestyles and become increasingly focused on healthy living, nutritional and supplemental. According to the Nutrition Business Journal's 2012 Supplement Business Report, 20% of the U.S. adult population (or 47 million people) were regular or heavy users of vitamins in 2011. We believe that growth in our industry will continue to be driven by consumers who increasingly embrace health and wellness as an important part of their lifestyles.

Participants in our industry include specialty retailers, supermarkets, drugstores, mass merchants, multi-level marketing organizations, online retailers, mail-order companies and a variety of other small participants. The nutritional supplements sold through these channels are divided into four major product categories: vitamins, minerals and health supplements; sports nutrition products; diet products; and other wellness products. Most supermarkets, drugstores and mass merchants have narrow nutrition supplement product offerings limited primarily to simple vitamins and herbs, with less knowledgeable sales associates than specialty retailers.

### Our Products

We currently offer 28 athlete-focused, high quality nutritional supplement products. None of our products are formulated to contain substances that have been the subject of publicized health concerns by the medical community such as ephedra, androstene, androstenedione, aspartame, steroids or human growth hormones. Our products are comprised of vitamins, minerals, herbs and herbal extracts, carbohydrates, proteins and amino acids tested by our recognized scientists, and intended to be safe and effective for the overall health of athletes. Moreover, our nutritional supplements are intended to enhance the effects of workouts, support muscle recovery and strength, and nourish the human body for optimal physical fitness. The following is a brief description of our current products:

<b>Product Name</b>	<b>Description and/or Intended Benefits</b>
Amino 1™	Hydration sports recovery drink with amino acids, coconut water powder and electrolytes
Armor-V Advanced Multi Nutrient Complex®	Advanced multi-vitamin complex; multiple vitamins and minerals along with immune system support
Assault™	Fuel pre-workout power for long-lasting energy to enhance focus and build lean muscle mass
Battle Fuel XT™	Herbal formula to enhance athletic performance and support testosterone production
BCAA	Promote muscle development and maintenance through several amino acid complexes
Bizzy Diet® Stack™	Combination of products to support fat loss and lean muscle tissue
MusclePharm BulletProof Nighttime Recovery Matrix®	Promote deep sleep; optimize recovery; and support growth hormone/testosterone output
Carnitine Core™	Promote energy for muscle gain and fat loss
Casein	Slow digesting protein with added digestive enzymes and pro-biotic blend
CLA Core™	Support body composition and aid in weight loss
Combat Powder®	

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Creatine	High protein supplement; enhance digestion of nutrients and maximize response to intense training
MusclePharm Energel®	Promote strength, power and endurance
Fish Oil	Increased “Energy On The Go®” for workouts and daily activities
GetSwole® Stack™	Blend of nutritional oils
Glutamine	Combination of products to support lean muscle mass
Hybrid N.O.™	Assist in recovery time, enhance muscle growth
Live Shredded® Stack™	Increase muscle fullness and vascularity
MusclePharm Musclegel®	Combination of products to support lean muscle mass maintenance
Re-Con®	Protein and nutrition supplement, contains several different proteins
MusclePharm Shred Matrix®	Promote post-workout growth and repair; replenish nutrients
Z-Core PM™	Multi-level weight-loss system; increase metabolism, decrease body fat, appetite balance and weight management
FitMiss Burn™	Mineral support formula to support natural testosterone levels, deep sleep and healthy libido function
FitMiss Cleanse™	Support appetite balance, increased energy and healthy metabolism for women
FitMiss Delight™	Support healthy body composition and weight management for women
FitMiss Tone™	Protein nutrition shake for women
FitMiss Ignite™	Support body composition and aids in weight loss for women
FitMiss Balance	Pre-workout energy booster for women
	Multivitamin and mineral product for women

MusclePharm Apparel

We granted an exclusive indefinite license to market, manufacture, design and sell our existing apparel line. The licensee paid an initial fee of \$250,000 in June, 2011 and will pay us a 10% net royalty based on the licensee's net income at the end of each fiscal year. As of December 31, 2012, we had not earned any royalty revenue under this licensing arrangement.

Quality in Our Products

In seeking quality in our products, we require that before a product is brought to market, all:

- supplements are supported with publicly available scientific research and references;
- our manufacturers carry applicable manufacturing licenses;
- ingredients are combined so that their effectiveness is not impaired;
- ingredients are in dosage levels that fall within tolerable upper intake levels established for healthy people by the Institute of Medicine of the National Academies;
- products do not contain any substances banned by major sporting organizations such as the World Anti-Doping Agent, or WADA, NFL or MLB, or adulterated ingredients such as ephedra, androstenedione, aspartame, steroids or human growth hormones;
- formulations have a minimum two-year shelf life; and
- tablets, capsules and soft gels are designed to readily dissolve in the body to facilitate absorption.

Future Products



New products are derived from a number of sources, including our management, trade publications, scientific and health journals, consultants and distributors. Prior to introducing new products, we investigate product formulations as they relate to regulatory compliance and other issues.

### Research and Development

Each of our products is the end result of a six stage process involving recognized nutrition scientists, doctors and professional athletes. Our expenses for research and development for the years ended December 31, 2012 and 2011, were approximately \$0.2 million and \$0.1 million, respectively.

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### Management Information, Internet and Telecommunication Systems

The ability to efficiently manage distribution, compensation, inventory control, and communication functions through the use of sophisticated and dependable information processing systems is critical to our success.

We continue to invest in applications and integrations to improve and optimize business processes and to increase performance company wide.

### Product Returns

We provide an informal seven day right of return for our products. Historically, product returns as a percentage of our net sales have been nominal.

### Trademarks and Patents

We regard our trademarks and other proprietary rights as valuable assets and believe that protecting our key trademarks is crucial to our business strategy of building strong brand name recognition. These trademarks are crucial elements of our business, and have significant value in the marketing of our products.

Our policy is to pursue registrations for all of the trademarks associated with our products. Federally registered trademarks have a perpetual life, provided that they are maintained and renewed on a timely basis and used correctly as trademarks, subject to the rights of third parties to attempt to cancel a trademark if priority is claimed or there is confusion of usage. We rely on common law trademark rights to protect our unregistered trademarks. Common law trademark rights generally are limited to the geographic area in which the trademark is actually used, while a United States federal registration of a trademark enables the registrant to stop the unauthorized use of the trademark by any third party anywhere in the United States. Furthermore, the protection available, if any, in foreign jurisdictions may not be as extensive as the protection available to us in the United States.

Although we seek to ensure that we do not infringe on the intellectual property rights of others, there can be no assurance that third parties will not assert intellectual property infringement claims against us.

We have obtained U.S. registration on trademarks for eight of our products with USPTO applications pending on several of our newest products. We have abandoned or not pursued efforts to register marks identifying other items in our product line for various reasons including the inability of some names to qualify for registration. We also received federal trademark registration for 14 names or expressions that we use or intend to use to distinguish ourselves from others, with several USPTO applications pending. All trademark registrations are protected for an initial period of five years and then are renewable after five years if still in use and every 10 years thereafter.

We have filed for a provisional patent to protect technology used in certain of our products, including MusclePharm Musclegel® and Re-Con®. The patent was filed in the United States as a Patent Cooperation Treaty (PCT) application to secure patent protection worldwide. An International Search Report (ISR)/Written Opinion was issued in October 2012, and was published at the International Bureau on February 28, 2013.

We also have filed for protection of various marks throughout the world and are committed to a significant long-term strategy to build and protect the MusclePharm brand globally. The “MusclePharm” mark is pending registration in 14 countries. The mark has been granted final trademark registration in six countries, and we believe the remaining registrations will be granted within the next several months.

The “MP” logo has been filed and registration granted in one country. The application for protection of the logo is expected to be filed in the near future in 26 additional countries. Going forward, we expect to seek trademark registration for our best-selling international products.

## Competition

We compete with many companies engaged in selling nutritional supplements. The sports nutrition business is highly competitive. Most of our competitors have significantly more financial and human resources than we do, and have operating histories longer than ours. We seek to differentiate our products and marketing from our competitors based on our product quality, the use of sports celebrity endorsers and through our marketing program. Competition is based primarily on quality and assortment of products, marketing support, and availability of new products. Currently, our main competitors are three private companies: Optimum Nutrition, Inc., or Optimum, Iovate Health Sciences, Inc., or IHS, and Bio-Engineered Supplements and Nutrition, Inc., or BSN. Optimum is a wholly owned subsidiary of Glanbia Nutritionals, Inc., an international nutritional ingredients group. Optimum owns and operates two brands of nutritional supplements (Optimum Nutrition and American Body Building), providing a line of products across multiple categories. IHS is a nutritional supplement company that delivers a range of products to the nutritional marketplace. Headquartered in Oakville, Ontario, Canada, IHS's line of products can be found in major retail stores and include such brands as Hydroxy-Cut™, Cell-Tech™, Six Star Nutrition™. BSN is also a sports nutrition leader whose top products include No-Explode™ and Syntha Six Protein™.

The retail market for nutritional supplements is characterized by a few dominant national companies, including GNC, Vitamin World, Vitamin Shoppe, and Great Earth Vitamin Stores. Others have a presence within local markets, such as Vitamin Cottage in Denver, Colorado. Four companies dominate the online channel—bodybuilding.com, vitamins.com (owned by Puritan's Pride), GNC.com and vitaminshoppe.com, the latter two having retail sales locations as well.

Major competitors in the sports nutrition and weight-loss markets consist of companies such as EAS, Inc., Weider Nutrition International, Inc. and Twinlab Corporation, which dominate the market with such products as Myoplex (EAS), Body Shaper (Weider) and Ripped Fuel (Twinlab).

We also compete with a number of large direct selling firms selling nutritional, diet, health, personal care and environmental products, and numerous small competitors. The principal direct selling competitors are Amway Corporation, Nature's Bounty, Inc., Sunrider Corporation, New Vision USA, Inc., Herbalife International of America, Inc., USANA, Inc., and Melaleuca, Inc.

We intend to compete by aggressively marketing our brand, emphasizing our relationships with professional athletes, and maximizing our relationships with those athletes, retail outlets and industry publications that align with our vision.

## Our Manufacturers

We are committed to producing and selling highly efficacious products that are trusted for their quality and safety. To date, our products have been outsourced to a third party manufacturer where the products are manufactured in full compliance with the current good manufacturing practice, or cGMP, standards set by the U.S. Food and Drug Administration, or FDA.

We use four non-affiliated principal manufacturers for the components of our products, and multiple vendors for packaging and labeling. We have an agreement in place with our primary manufacturer. This agreement was designed to support our growth and ensure consistence in production and quality. Our primary manufacturer purchases all needed raw materials from suppliers. Additionally, our primary manufacturer is responsible for acquisition and storage of all product inventory (at both on and off-site facilities). We do not take title to our products until time of shipment to retailers. The three non-primary manufacturers are governed by purchase order terms and can be terminated at any time.

Our relationship with any of our manufactures may be terminated upon proper notice. We have established relationships with other manufacturers that we believe can satisfy our needs if our relationship with any manufacturer terminates.

#### Product Delivery

All of our products shipped out of the United States are shipped by our manufacturers directly to our retailers. Our manufacturers collect sales tax on products based upon the address of the consumer to whom products are sent regardless of how the order is placed. Products sold by MuscleCharm Canada are shipped from our inventory held in Canada. We collect sales tax on products when applicable.

#### Regulatory Matters

Government Regulation and Statutes – Product Regulation

*Domestic*

The manufacture, packaging, labeling, advertising, promotion, distribution and sale of our products are subject to regulation by one or more federal agencies, including the FDA, Consumer Product Safety Commission, or CPSC, and the U.S. Department of Agriculture, or USDA. Advertising and other forms of promotion and methods of marketing are subject to regulation primarily by the U.S. Federal Trade Commission, or FTC, which regulates these activities under the Federal Trade Commission Act, or FTCA. The foregoing matters regarding our products are also regulated by various state and local agencies as well as those of each foreign country to which we distribute our products.

The Dietary Supplement Health and Education Act of 1994, or DSHEA, amended the Federal Food, Drug, and Cosmetic Act, or FFDC Act, to establish a new framework governing the composition, safety, labeling, manufacturing and marketing of dietary supplements. All of the products we market are regulated as dietary supplements under the FFDC Act.

Generally, under the FFDC Act, dietary ingredients that were marketed in the United States prior to October 15, 1994 may be used in dietary supplements without notifying the FDA. “New” dietary ingredients (i.e., dietary ingredients that were “not marketed in the United States before October 15, 1994”) must be the subject of a new dietary ingredient notification submitted to the FDA unless the ingredient has been “present in the food supply as an article used for food” without being “chemically altered”. A new dietary ingredient notification must provide the FDA with evidence of a “history of use or other evidence of safety” establishing that use of the dietary ingredient “will reasonably be expected to be safe”. A new dietary ingredient notification must be submitted to the FDA at least 75 days before it is initially marketed. The FDA may determine that a new dietary ingredient notification does not provide an adequate basis to conclude that the ingredient is reasonably expected to be safe. Such a determination could prevent the marketing of the dietary ingredient. The FDA recently issued draft guidance governing the notification for new dietary ingredients. Although FDA guidance is not mandatory, and companies are free to use an alternative approach if the approach satisfies the requirements of applicable laws and regulations, FDA guidance is a strong indication of the FDA’s “current thinking” on the topic discussed in the guidance, including its position on enforcement. At this time, it is difficult to determine whether the draft guidance, if finalized, would have a material impact on our operations. However, if the FDA were to enforce the applicable statutes and regulations in accordance with the draft guidance as written, this manner of enforcement could require us to incur additional expenses, which could be significant, and negatively impact our business in several ways, including, but not limited to, enjoining the manufacturing of our products until the FDA determines that we are in compliance and can resume manufacturing, which could increase our liability and reduce our growth prospects.

The Dietary Supplement Labeling Act of 2011, which was introduced in July 2011 (S1310), would amend the FFDC Act to, among other things, (i) require dietary supplement manufacturers to register the dietary supplements that they manufacture with the FDA (and provide a list of the ingredients in and copies of the labels and labeling of the supplements), (ii) mandate the FDA and the Institute of Medicine (a non-governmental, nonprofit organization that provides advice to the public and decision makers, such as the FDA, concerning health issues) to identify dietary ingredients that cause potentially serious adverse effects, (iii) require warning statements for dietary supplements

containing potentially unsafe ingredients and (iv) require that the FDA define the term “conventional food”. If the bill is reintroduced and enacted, it could restrict the number of dietary supplements available for sale, increase our costs, liabilities and potential penalties associated with manufacturing and selling dietary supplements, and reduce our growth prospects.

The Dietary Supplement Safety Act (S3002) was introduced in February 2010 and would repeal the provision of DSHEA that permits the sale of all dietary ingredients sold in dietary supplements marketed in the United States prior to October 15, 1994, and instead permit the sale of only those dietary ingredients included on a list of Accepted Dietary Ingredients to be issued and maintained by the FDA. The bill also would allow the FDA to: impose a fine of twice the gross profits earned by a distributor on sales of any dietary supplement found to violate the law; require a distributor to submit a yearly report on all non-serious adverse event reports received during the year to the FDA; and allow the FDA to recall any dietary supplement it determines with “a reasonable probability” would cause serious adverse health consequences or is adulterated or misbranded. The bill also would require any dietary supplement distributor to register with the FDA and submit a list of the ingredients in and copies of the labels of its dietary supplements to the FDA and thereafter update such disclosures yearly and submit any new dietary supplement product labels to the FDA before marketing any dietary supplement product. If this bill is reintroduced and enacted, it could severely restrict the number of dietary supplements available for sale and increase our costs and potential penalties associated with selling dietary supplements.

The FDA or other agencies could take actions against products or product ingredients that in its determination present an unreasonable health risk to consumers that would make it illegal for us to sell such products. In addition, the FDA could issue consumer warnings with respect to the products or ingredients in such products at the point they are sold to end users. Such actions or warnings could be based on information received through FFDC Act-mandated reporting of serious adverse events. The FDA in recent years has applied these procedures to require that consumers be warned to stop using certain dietary supplements. For businesses that have been subjected to these regulatory actions, sales have been reduced and the businesses have been required to pay refunds for recalled products.

In general, we seek representations and warranties, indemnification and/or insurance from our vendors. However, even with adequate insurance and indemnification, any claims of non-compliance could significantly damage our reputation and consumer confidence in our products. In addition, the failure of such products to comply with applicable regulatory and legislative requirements could prevent us from marketing the products or require us to recall or remove such products from the market, which in certain cases could materially and adversely affect our business, financial condition and results of operations.

Under the current provisions of the FFDC Act, there are four categories of claims that pertain to the regulation of dietary supplements. First are health claims that describe the relationship between a nutrient or dietary ingredient and a disease or health related condition and can be made on the labeling of dietary supplements if supported by significant scientific agreement and authorized by the FDA in advance via notice and comment rulemaking. Second are nutrient content claims which describe the nutritional value of the product and may be made if defined by the FDA through notice and comment rulemaking and if one serving of the product meets the definition. Third are statements of nutritional support or product performance. The FFDC Act permits “statements of nutritional support” to be included in labeling for dietary supplements without FDA pre-market approval. These statements must be submitted to the FDA within 30 days of marketing and may describe how a particular dietary ingredient affects the structure, function or general well-being of the body, or the mechanism of action by which a dietary ingredient may affect body structure, function or well-being, but may not expressly or implicitly represent that a dietary supplement will diagnose, cure, mitigate, treat or prevent a disease. A company that uses a statement of nutritional support in labeling must possess scientific evidence substantiating that the statement is truthful and not misleading. The fourth category are drug claims, representations that a product is intended to diagnose, mitigate, treat, cure or prevent a disease, are prohibited from use in the labeling of dietary supplements, and we make no drug claims regarding our products.

We may make claims for our dietary supplement products regarding three of the four categories, that are statements of nutritional support, health claims and nutrient content claims when authorized by the FDA, or that otherwise are allowed by law. The FDA’s interpretation of what constitutes an acceptable statement of nutritional support may change in the future, thereby requiring that we revise our labeling. These regulatory activities include those discussed above concerning products marketed before October 15, 1994 or afterwards, and the requirements of 75 days advance notice to the FDA before marketing products containing new dietary ingredients. There is no assurance that the FDA will accept the evidence of safety for any new dietary ingredients that we may wish to market, and the FDA’s refusal to accept that evidence could prevent the marketing of the new dietary ingredients and dietary supplements containing a new dietary ingredient. If the FDA determines that a particular statement of nutritional support is an unacceptable drug claim, conventional food claim or an unauthorized version of a “health claim”, or, if the FDA determines that a particular claim is not adequately supported by existing scientific data or is false or misleading, we would be



prevented from using the claim.

In addition, DSHEA provides that so-called “third-party literature”, e.g., a reprint of a peer-reviewed scientific publication linking a particular dietary ingredient with health benefits, may be used “in connection with the sale of a dietary supplement to consumers” without the literature being subject to regulation as labeling. The literature: (1) must not be false or misleading; (2) may not “promote” a particular manufacturer or brand of dietary supplement; (3) must present a balanced view of the available scientific information on the subject matter; (4) if displayed in an establishment, must be physically separate from the dietary supplements; and (5) should not have appended to it any information by sticker or any other method. If the literature fails to satisfy each of these requirements, we may be prevented from disseminating such literature with our products, and any dissemination could subject our product to regulatory action as an illegal drug.

Our dietary supplements must also comply with the Dietary Supplement and Nonprescription Drug Consumer Protection Act, which became effective on December 22, 2007. This law amends the FFDC Act to mandate that we report to the FDA any reports of serious adverse events that we receive. Under the law, an “adverse event” is any health-related event associated with the use of a dietary supplement that is adverse, and a “serious adverse event” is any adverse event that results in death, a life-threatening experience, inpatient hospitalization, a persistent or significant disability or incapacity, or a congenital anomaly or birth defect, or requires, based on reasonable medical judgment, a medical or surgical intervention to prevent one of these outcomes. Serious adverse event reports received through the address or phone number on the label of a dietary supplement, as well as all follow-up reports of new medical information received within one year after the initial report, must be submitted to the FDA no later than 15 business days after the report is received. The law also requires recordkeeping for reports of non-serious adverse events as well as serious adverse events for six years following the event, and these records are subject to FDA inspection.

In June 2007, pursuant to the authority granted by the FFDC Act as amended by DSHEA, the FDA published detailed current good manufacturing practice, or cGMP, regulations that govern the manufacturing, packaging, labeling and holding operations of dietary supplement manufacturers. The cGMP regulations, among other things, impose significant recordkeeping requirements on manufacturers. The cGMP requirements are in effect for all manufacturers, and the FDA is conducting inspections of dietary supplement manufacturers pursuant to these requirements. There remains considerable uncertainty with respect to the FDA's interpretation of the regulations and their actual implementation in manufacturing facilities. The failure of a manufacturing facility to comply with the cGMP regulations renders products manufactured in such facility "adulterated", and subjects such products and the manufacturer to a variety of potential FDA enforcement actions.

The FDA has also announced its intention to promulgate new cGMPs specific to dietary supplements, to fully enforce DSHEA and monitor compliance with the Bioterrorism Act of 2002. We intend to comply with the new cGMPs once they are adopted. The new cGMPs, predicted to be finalized shortly, would be more detailed and stringent than the cGMPs that currently apply to dietary supplements and may, among other things, require dietary supplements to be prepared, packaged, produced and held in compliance with regulations similar to the cGMP regulations for drugs. There can be no assurance that, if the FDA adopts cGMP regulations for dietary supplements, we will be able to comply with the new regulations without incurring a substantial expense.

In addition, under the Food Safety Modernization Act, or FSMA, which was enacted on January 4, 2011, the manufacturing of dietary ingredients contained in dietary supplements will be subject to similar or even more burdensome manufacturing requirements, which will likely increase the costs of dietary ingredients and will subject suppliers of such ingredients to more rigorous inspections and enforcement. The FSMA will also require importers of food, including dietary supplements and dietary ingredients, to conduct verification activities to ensure that the food they might import meets applicable domestic requirements.

The FDA has broad authority to enforce the provisions of federal law applicable to dietary supplements, including powers to issue a public warning or notice of violation letter to a company, publicize information about illegal products, detain products intended for import, require the reporting of serious adverse events, require a recall of illegal or unsafe products from the market, and request the Department of Justice to initiate a seizure action, an injunction action or a criminal prosecution in the U.S. courts. The FSMA expands the reach and regulatory powers of the FDA with respect to the production and importation of food, including dietary supplements. The expanded reach and regulatory powers include the FDA's ability to order mandatory recalls, administratively detain domestic products, require certification of compliance with domestic requirements for imported foods associated with safety issues and administratively revoke manufacturing facility registrations, effectively enjoining manufacturing of dietary ingredients and dietary supplements without judicial process. The regulation of dietary supplements may increase or become more restrictive in the future.

Our failure to comply with applicable FDA regulatory requirements could result in, among other things, injunctions, product withdrawals, recalls, product seizures, fines and criminal prosecutions.

Our advertising of dietary supplement products is subject to regulation by the FTC under the FTCA. Section 5 of the FTCA empowers the FTC to prohibit unfair methods of competition and unfair or deceptive acts or practices in or affecting commerce. Section 12 of the FTCA provides that the dissemination of any false advertisement for the purpose of inducing, directly or indirectly, the purchase of drugs or foods, which would include dietary supplements, is an unfair or deceptive act or practice. Additionally, under the FTC's Substantiation Doctrine, an advertiser is required to have a "reasonable basis" for all objective product claims before the claims are made. Failure to adequately substantiate claims may also be considered an unfair or deceptive practice. Pursuant to this FTC requirement, we are required to have adequate substantiation for all material advertising claims made for our products.

On November 18, 1998, the FTC issued "Dietary Supplements: An Advertising Guide for Industry." This guide provides marketers of dietary supplements with guidelines for applying FTC law to dietary supplement advertising and reiterates and explains the FTC's "reasonable basis" determination. It includes examples of the principles that should be used when interpreting and substantiating dietary supplement advertising. Although the guide provides additional explanation, it does not substantively change the FTC's existing policy that all supplement marketers have an obligation to ensure that claims are presented truthfully and to verify that such claims are adequately substantiated.

The FTC has a variety of processes and remedies available to it for enforcement, both administratively and judicially, including compulsory process, cease and desist orders and injunctions. FTC enforcement can result in orders requiring, among other things, limits on advertising, corrective advertising, consumer redress, divestiture of assets, rescission of contracts and such other relief as may be deemed necessary. Any violation could have a material adverse effect on our business, financial condition and results of operations.

As a result of our efforts to comply with applicable statutes and regulations in the United States and elsewhere, we have from time to time reformulated, eliminated or relabeled certain of our products and revised certain advertising claims. We cannot predict the nature of any future laws, regulations, interpretations or applications, nor can we determine what effect additional governmental regulations or administrative orders, when and if promulgated, would have on our business in the future. They could, however, require the reformulation of certain products to meet new standards, the recall or discontinuance of certain products not capable of reformulation, additional record keeping, expanded documentation of the properties of certain products, expanded or different labeling, and/or scientific substantiation. Any or all of such requirements could have a material adverse effect on our business, financial condition and results of operations.

Advertising and labeling for dietary supplements and conventional foods are also regulated by state, county and other local governmental authorities. Some states also permit these laws to be enforced by private attorney generals. These private attorney generals may seek relief for consumers, seek class action certifications, seek class-wide damages, seek class-wide refunds and product recalls of products sold by us. There can be no assurance that state and local authorities will not commence regulatory action, which could restrict the permissible scope of our product advertising claims, or products that can be sold in the future.

#### *Foreign*

Our products which we sell or may make plans to sell in foreign countries are also subject to regulation under various national, local and international laws that include provisions governing, among other things, the formulation, manufacturing, packaging, labeling, advertising and distribution of dietary supplements and over-the-counter drugs. These regulations may prevent or delay entry into the market or prevent or delay the introduction, or require the reformulation, of certain of our products. Compliance with such foreign governmental regulations is generally the responsibility of our distributors for those countries. These distributors are independent contractors over whom we have limited control.

#### *Possible New Legislation or Regulation*

Legislation may be introduced which, if passed, would impose substantial new regulatory requirements on dietary supplements. For example, although not yet reintroduced in this session of Congress, bills have been repeatedly proposed in past sessions of Congress which would subject the dietary ingredient dehydroepiandrosterone, or DHEA, to the requirements of the Controlled Substances Act, which would prevent the sale of products containing DHEA. In March 2009, the General Accounting Office, or GAO, issued a report that made four recommendations to enhance the FDA's oversight of dietary supplements. The GAO recommended that the Secretary of the Department of Health and Human Services direct the Commissioner of the FDA to: (1) request authority to require dietary supplement companies to identify themselves as a dietary supplement company and update this information annually, provide a list of all dietary supplement products they sell and a copy of the labels and update this information annually, and report all adverse events related to dietary supplements, not just serious adverse events; (2) issue guidance to clarify when an ingredient is considered a new dietary ingredient, the evidence needed to document the safety of new dietary ingredients, and appropriate methods for establishing ingredient identity; (3) provide guidance to industry to clarify when products should be marketed as either dietary supplements or conventional foods formulated with added dietary ingredients; and (4) coordinate with stakeholder groups involved in consumer outreach to identify additional mechanisms for educating consumers about the safety, efficacy, and labeling of dietary supplements, implement these mechanisms, and assess their effectiveness. These recommendations could lead to increased regulation by the FDA or future legislation concerning dietary supplements.

We cannot determine what effect additional domestic or international governmental legislation, regulations, or administrative orders, when and if promulgated, would have on our business in the future. New legislation or regulations may require the reformulation of certain products to meet new standards, require the recall or discontinuance of certain products not capable of reformulation, impose additional record keeping or require expanded documentation of the properties of certain products, expanded or different labeling or scientific substantiation.

## Employees

We believe that our success will depend significantly on our ability to identify, attract, and retain capable employees. As of March 29, 2013, we had 47 full time employees. Our employees are not represented by any collective bargaining unit, and we believe our relations with our employees are good. We have recently completed staffing for the in-house medical and physiology center on-site in our training facilities.

## Insurance

We maintain commercial liability, including product liability coverage, and property insurance. Our policy provides for a general liability of \$1.0 million per occurrence, and \$2.0 million annual aggregate coverage which includes our main corporate facility. We carry property coverage on our main office facility to cover our legal liability, tenant's improvements, business property, and inventory. We maintain product liability insurance with an aggregate cap on retained loss of \$5.0 million.

## **Item 1A. Risk Factors**

Set forth below are risks with respect to our Company. Readers should review these risks, together with the other information contained in this report. The risks and uncertainties we have described in this report are not the only ones we face. There may be additional risks and uncertainties that are not presently known to us, or that we presently deem immaterial, that may become material and also adversely affect our business. If any of the following risks develop into actual events, our business, financial conditions or results of operations could be material and adversely affected. See "Forward-Looking Statements" at the beginning of this report for additional risks.

### Risks Related to Our Business and Industry

***Our business and operations are experiencing rapid growth. If we fail to effectively manage our growth, our business and operating results could be harmed.***

We have experienced and expect to continue to experience rapid growth in our operations, which has placed, and will continue to place, significant demands on our management, and our operational and financial infrastructure. If we do not effectively manage our growth, we may fail to attain operational efficiencies we are seeking, timely deliver

products to our customers in sufficient volume or the quality of our products could suffer, which could negatively affect our operating results. To effectively manage this growth, we expect we will need to hire additional persons, particularly in sales and marketing, and we will need to continue to improve significantly our operational, financial and management controls and our reporting systems and procedures. These additional employees, systems enhancements and improvements will require significant capital expenditures and management resources. Failure to implement these proposed growth objectives would likely hurt our ability to manage our growth and our financial position.

As of the date of this report, management has taken over the shipping of most product, other than drop shipments, to our customers from our 152,000 square foot distribution center in Franklin, Tennessee. We have hired a warehouse manager, and relocated two shipping logistic individuals from our Denver, Colorado office to manage shipping. We also hired several local warehouse individuals to manage this process. We believe this efficiency will improve our shipping time and reduce our overall cost of goods sold.

Additionally, the Company has hired six new sales and marketing individuals to continue the expansion and growth of sales. The finance team has added four new staff members and our board of directors appointed a new Chief Financial Officer on July 1, 2012. New controls and procedures have been implemented over sales orders and discounting as well as new financial controls, budgeting processes, daily and monthly monitoring reports along with dashboard reporting for aiding management in making good decisions.

The Company has appointed a five member Board of Directors, three of which are independent by the board. The Company has also appointed an audit committee, and compensation committee. Regular board meetings are held and task lists are reviewed and checked off with members of outside counsel to mitigate issues and promote further improvements around internal controls and reporting which the Company believes is much improved but not yet complete.

***Our failure to respond appropriately to competitive challenges, changing consumer preferences and demand for new products could significantly harm our customer relationships and product sales.***

The nutritional sports supplement industry is characterized by intense competition for product offerings and rapid and frequent changes in consumer demand. Our failure to predict accurately product trends could negatively impact our products and cause our revenues to decline.

Our success with any particular product offering (whether new or existing) depends upon a number of factors, including our ability to:

- deliver products in a timely manner in sufficient volumes;
- accurately anticipate customer needs and forecast accurately to our manufacturers in an expanding business;
- differentiate our product offerings from those of our competitors;
- competitively price our products; and
- develop new products.

Products often have to be promoted heavily in stores or in the media to obtain visibility and consumer acceptance. Acquiring distribution for products is difficult and often expensive due to slotting and other promotional charges mandated by retailers. Products can take substantial periods of time to develop consumer awareness, consumer acceptance and sales volume. Accordingly, some products may fail to gain or maintain sufficient sales volume and as a result may have to be discontinued. In a highly competitive marketplace it may be difficult to have retailers open stock-keeping units (sku's) for new products.

***Our management has determined that certain disclosure controls and procedures may be ineffective, even though they have been improved upon, which could result in material misstatements in our financial statements.***

Our management is responsible for establishing and maintaining adequate internal control over our financial reporting, as defined in Rule 13a-15(f) under the Exchange Act. As of December 31, 2012, our management determined that some of our disclosure controls and procedures were ineffective due to weaknesses in our financial closing process.

We intend to implement remedial measures designed to address the ineffectiveness of our disclosure controls and procedures, such as hiring several individuals with significant accounting, auditing and financial reporting experience and segregating our internal and external financial reporting among our larger financing and accounting staff, implementing more specific segregation of our accounting software and providing historical information more timely, such as monthly budgeting analysis and cash reporting. We have also adopted and implemented written procedures to



document purchase orders, product discounts and product transition flow as well as analysis of our cost of goods sold. If these remedial measures are insufficient to address the ineffectiveness of our disclosure controls and procedures, or if material weaknesses or significant deficiencies in our internal control are discovered or occur in the future and the ineffectiveness of our disclosure controls and procedures continues, we may fail to meet our future reporting obligations on a timely basis, our consolidated financial statements may contain material misstatements, we could be required to restate our prior period financial results, our operating results may be harmed, we may be subject to class action litigation, and if we gain a listing on a stock exchange, our common stock could be delisted from that exchange. Any failure to address the ineffectiveness of our disclosure controls and procedures could also adversely affect the results of the periodic management evaluations regarding the effectiveness of our internal control over financial reporting and our disclosure controls and procedures that are required to be included in our annual report on Form 10-K. Internal control deficiencies and ineffective disclosure controls and procedures could also cause investors to lose confidence in our reported financial information. We can give no assurance that the measures we plan to take in the future will remediate the ineffectiveness of our disclosure controls and procedures or that any material weaknesses or restatements of financial results will not arise in the future due to a failure to implement and maintain adequate internal control over financial reporting or adequate disclosure controls and procedures or circumvention of these controls. In addition, even if we are successful in strengthening our controls and procedures, in the future those controls and procedures may not be adequate to prevent or identify irregularities or errors or to facilitate the fair presentation of our consolidated financial statements.

***If we fail to comply with the rules under the Sarbanes-Oxley Act of 2002 related to disclosure controls and procedures, or, if we discover material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult.***

If we fail to comply with the rules under the Sarbanes-Oxley Act of 2002 related to disclosure controls and procedures, or, if we discover additional material weaknesses and other deficiencies in our internal control and accounting procedures, our stock price could decline significantly and raising capital could be more difficult. Moreover, effective internal controls are necessary for us to produce reliable financial reports and are important to helping prevent financial fraud. If we cannot provide reliable financial reports or prevent fraud, our business and operating results could be harmed, investors could lose confidence in our reported financial information, and the trading price of our common stock could drop significantly. In addition, we cannot be certain that additional material weaknesses or significant deficiencies in our internal controls will not be discovered in the future.

***Our industry is highly competitive, and our failure to compete effectively could adversely affect our market share, financial condition and future growth.***

The nutritional supplement industry is highly competitive with respect to:

- price;
- shelf space and store placement;
- brand and product recognition;
- new product introductions; and
- raw materials.

Most of our competitors are larger more established and possess greater financial, personnel, distribution and other resources than we have. We face competition in the health food channel from a limited number of large nationally known manufacturers, private label brands and many smaller manufacturers of dietary supplements.

***We rely on a limited number of customers for a substantial portion of our sales, and the loss of or material reduction in purchase volume by any of these customers would adversely affect our sales and operating results.***

For the year ended December 31, 2012, two of our customers accounted for approximately 45% of our sales. Our largest customer for the year ended December 31, 2012, accounted for 33% of our sales. For the year ended December 31, 2011, two customers accounted for approximately 55% of our sales and our largest customer represented 41% of our sales. The loss of any of our major customers, a significant reduction in purchases by any major customer, or, any

serious financial difficulty of a major customer, could have a material adverse effect on our sales and results of operations.

***Adverse publicity or consumer perception of our products and any similar products distributed by others could harm our reputation and adversely affect our sales and revenues.***

We believe we are highly dependent upon positive consumer perceptions of the safety and quality of our products as well as similar products distributed by other sports nutrition supplement companies. Consumer perception of sports nutrition supplements and our products in particular can be substantially influenced by scientific research or findings, national media attention and other publicity about product use. Adverse publicity from these sources regarding the safety, quality or efficacy of nutritional supplements and our products could harm our reputation and results of operations. The mere publication of news articles or reports asserting that such products may be harmful or questioning their efficacy could have a material adverse effect on our business, financial condition and results of operations, regardless of whether such news articles or reports are scientifically supported or whether the claimed harmful effects would be present at the dosages recommended for such products.

***We rely on highly skilled personnel and, if we are unable to retain or motivate key personnel, hire qualified personnel, we may not be able to grow effectively.***

Our performance largely depends on the talents and efforts of highly skilled individuals. Our future success depends on our continuing ability to identify, hire, develop, motivate and retain highly skilled personnel for all areas of our organization, particularly sales and marketing. Competition in our industry for qualified employees is intense. In addition, our compensation arrangements, such as our bonus programs, may not always be successful in attracting new employees or retaining and motivating our existing employees. Our continued ability to compete effectively depends on our ability to attract new employees and to retain and motivate our existing employees.

***If we are unable to retain key personnel, our ability to manage our business effectively and continue our growth could be negatively impacted.***

Our management employees include Brad J. Pyatt, L. Gary Davis, John H. Bluhner, Jeremy R. DeLuca and Cory J. Gregory. These key management employees are primarily responsible for our day-to-day operations, and we believe our success depends in large part on our ability to retain them and to continue to attract additional qualified individuals to our management team. Currently, we have executed employment agreements with our key management employees. The loss or limitation of the services of any of our key management employees or the inability to attract additional qualified personnel could have a material adverse effect on our business and results of operations.

***Our operating results may fluctuate, which makes our results difficult to predict and could cause our results to fall short of expectations.***

Our operating results may fluctuate as a result of a number of factors, many of which may be outside of our control. As a result, comparing our operating results on a period-to-period basis may not be meaningful, and you should not rely on our past results as an indication of our future performance. Our quarterly, year-to-date, and annual expenses as a percentage of our revenues may differ significantly from our historical or projected rates. Our operating results in future quarters may fall below expectations. Each of the following factors may affect our operating results:

- our ability to deliver products in a timely manner in sufficient volumes;
- our ability to recognize product trends;
- our loss of one or more significant customers;
- the introduction of successful new products by our competitors; and
- adverse media reports on the use or efficacy of nutritional supplements.

Because our business is changing and evolving, our historical operating results may not be useful to you in predicting our future operating results.

***The continuing effects of the most recent global economic crisis may impact our business, operating results, or financial condition.***

The global economic crisis that began in 2008 has caused disruptions and extreme volatility in global financial markets and increased rates of default and bankruptcy, and has impacted levels of consumer spending. These macroeconomic developments could negatively affect our business, operating results, and financial condition. For example, if consumer spending decreases, this may result in lower sales.

***We may be exposed to material product liability claims, which could increase our costs and adversely affect our reputation and business.***

As a marketer and distributor of products designed for human consumption, we could be subject to product liability claims if the use of our products is alleged to have resulted in injury. Our products consist of vitamins, minerals, herbs and other ingredients that are classified as dietary supplements and in most cases are not subject to pre-market regulatory approval in the United States or internationally. Previously unknown adverse reactions resulting from human consumption of these ingredients could occur.

We have not had any product liability claims filed against us, but in the future we may be subject to various product liability claims, including among others that our products had inadequate instructions for use, or inadequate warnings concerning possible side effects and interactions with other substances. The cost of defense can be substantially higher than the cost of settlement even when claims are without merit. The high cost to defend or settle product liability claims could have a material adverse effect on our business and operating results.

***Our insurance coverage or third party indemnification rights may not be sufficient to cover our legal claims or other losses that we may incur in the future.***

We maintain insurance, including property, general and product liability, and workers' compensation to protect ourselves against potential loss exposures. In the future, insurance coverage may not be available at adequate levels or on adequate terms to cover potential losses, including on terms that meet our customer's requirements. If insurance coverage is inadequate or unavailable, we may face claims that exceed coverage limits or that are not covered, which could increase our costs and adversely affect our operating results.

***Our intellectual property rights are valuable, and any inability to protect them could reduce the value of our products and brand.***

We have invested significant resources to protect our brands and intellectual property rights. However, we may be unable or unwilling to strictly enforce our intellectual property rights, including our trademarks, from infringement. Our failure to enforce our intellectual property rights could diminish the value of our brands and product offerings and harm our business and future growth prospects.

***We may be subject to intellectual property rights claims, which are costly to defend, could require us to pay damages and could limit our ability to sell some of our products.***

Our industry is characterized by vigorous pursuit and protection of intellectual property rights, which has resulted in protracted and expensive litigation for several companies. Third parties may assert claims of misappropriation of trade secrets or infringement of intellectual property rights against us or against our end customers or partners for which we may be liable.

As our business expands, the number of products and competitors in our markets increases and product overlaps occur, infringement claims may increase in number and significance. Intellectual property lawsuits are subject to inherent uncertainties due to the complexity of the technical issues involved, and we cannot be certain that we would be successful in defending ourselves against intellectual property claims. Further, many potential litigants have the capability to dedicate substantially greater resources than we can to enforce their intellectual property rights and to defend claims that may be brought against them. Furthermore, a successful claimant could secure a judgment that requires us to pay substantial damages or prevents us from distributing products or performing certain services.

***An increase in product returns could negatively impact our operating results and profitability.***

We permit the return of damaged or defective products and accept limited amounts of product returns in certain instances. While such returns have historically been nominal and within management's expectations and the provisions established, future return rates may differ from those experienced in the past. Any significant increase in damaged or defective products or expected returns could have a material adverse effect on our operating results for the period or periods in which such returns materialize.

***We have no manufacturing capacity and anticipate continued reliance on third-party manufacturers for the development and commercialization of our products.***

We do not currently operate manufacturing facilities for production of our products. We lack the resources and the capabilities to manufacture our products on a commercial scale. We do not intend to develop facilities for the

manufacture of products in the foreseeable future. We rely on third-party manufacturers to produce bulk products required to meet our sales needs. We plan to continue to rely upon contract manufacturers to manufacture commercial quantities of our products.

Our contract manufacturers' failure to achieve and maintain high manufacturing standards, in accordance with applicable regulatory requirements, or the incidence of manufacturing errors, could result in consumer injury or death, product shortages, product recalls or withdrawals, delays or failures in product testing or delivery, cost overruns or other problems that could seriously harm our business. Contract manufacturers often encounter difficulties involving production yields, quality control and quality assurance, as well as shortages of qualified personnel. Our existing manufacturers and any future contract manufacturers may not perform as agreed or may not remain in the contract manufacturing business. In the event of a natural disaster, business failure, strike or other difficulty, we may be unable to replace a third-party manufacturer in a timely manner and the production of our products would be interrupted, resulting in delays, additional costs and reduced revenues.

***A shortage in the supply of key raw materials could increase our costs or adversely affect our sales and revenues.***

All of our raw materials for our products are obtained from third-party suppliers. Since all of the ingredients in our products are commonly used, we have not experienced any shortages or delays in obtaining raw materials. If circumstances changed, shortages could result in materially higher raw material prices or adversely affect our ability to have a product manufactured. Price increases from a supplier would directly affect our profitability if we are not able to pass price increases on to customers. Our inability to obtain adequate supplies of raw materials in a timely manner or a material increase in the price of our raw materials could have a material adverse effect on our business, financial condition and results of operations.

***Because we are subject to numerous laws and regulations, and we may become involved in litigation from time to time, we could incur substantial judgments, fines, legal fees and other costs.***

Our industry is highly regulated. The manufacture, labeling and advertising for our products are regulated by various federal, state and local agencies as well as those of each foreign country to which we distribute. These governmental authorities may commence regulatory or legal proceedings, which could restrict the permissible scope of our product claims or the ability to manufacture and sell our products in the future. The U.S. Food and Drug Administration, or FDA, regulates our products to ensure that the products are not adulterated or misbranded. Failure to comply with FDA requirements may result in, among other things, injunctions, product withdrawals, recalls, product seizures, fines and criminal prosecutions. Our advertising is subject to regulation by the Federal Trade Commission, or FTC, under the Federal Trade Commission Act. In recent years the FTC has initiated numerous investigations of dietary supplement and weight loss products and companies. Additionally, some states also permit advertising and labeling laws to be enforced by private attorney generals, who may seek relief for consumers, seek class action certifications, seek class wide damages and product recalls of products sold by us. Any of these types of adverse actions against us by governmental authorities or private litigants could have a material adverse effect on our business, financial condition and results of operations.

***A member of our management team has been involved in a bankruptcy proceeding and other failed business ventures that may expose us to assertions that we are not able to effectively manage our business, which could have a material adverse effect on our business and your investment in our securities.***

Our chief executive officer and co-chairman of our board of directors, Brad J. Pyatt, has been involved in a personal bankruptcy and other failed business ventures. This may expose us to assertions by others that our management team may not know how to effectively run a business. To address this risk, our board of directors has devoted significant time and energy to bolstering our management team with individuals who have public company experience and financial expertise, as well as adding independent board members. Notwithstanding these efforts, if our business partners and investors do not have confidence in our management team, it could have a material adverse effect on our business and your investment in our company.

***Because certain of our stockholders control a significant number of shares of our common stock, they may have effective control over actions requiring stockholder approval.***

As of March 29, 2013, our directors, executive officers, and their respective affiliates, beneficially own approximately 8.2% of our outstanding shares of common stock. Also, two of our executive officers own 51 shares of our Series B Preferred Stock, which has voting control of the Company. As a result, these stockholders, acting together, would have the ability to control the outcome of matters submitted to our stockholders for approval, including the election of directors and any merger, consolidation or sale of all or substantially all of our assets. In addition, these stockholders, acting together, would have the ability to control the management and affairs of our company. Accordingly, this concentration of ownership might harm the market price of our common stock by:

·delaying, deferring or preventing a change in corporate control;



- impeding a merger, consolidation, takeover or other business combination involving us; or
- discouraging a potential acquirer from making a tender offer or otherwise attempting to obtain control of us.

***The conversion reset provision relating to our Series D Preferred Stock could result in difficulty for us to obtain future equity financing.***

Because the conversion price reset provisions relating to our Series D Preferred Stock discussed above are so significant and to the potential detriment of common stockholders, it may make it more difficult for us to raise any future equity capital. This potential difficulty should be reviewed in light of our existing levels of little capital and significant working capital deficit. As of the date of issuance of this report approximately 76% of the preferred stock issued in the Series D offering has been converted to common stock, greatly reducing this risk.

***We may, in the future, issue additional shares of common stock, which would reduce investors' percent of ownership and may dilute our share value.***

Our articles of incorporation, as amended, authorize the issuance of 100,000,000 shares of common stock and 10,000,000 shares of preferred stock, of which (i) 5,000,000 shares have been designated as Series A Convertible Preferred Stock, (ii) 51 shares have been designated as Series B Preferred Stock, (iii) 500 shares have been designated as Series C Convertible Preferred Stock and (iv) 1,600,000 shares have been designated as Series D Convertible Preferred Stock. The articles of incorporation authorize our board of directors to prescribe the series and the voting powers, designations, preferences, limitations, restrictions and relative rights of any undesignated shares of our preferred stock. The future issuance of common stock and preferred stock may result in substantial dilution in the percentage of our common stock held by our then existing stockholders. We may value any common stock or preferred stock issued in the future on an arbitrary basis. The issuance of common stock for future services or acquisitions or other corporate actions may have the effect of diluting the value of the shares held by our investors, and might have an adverse effect on any trading market for our common stock.

***We may issue additional shares of preferred stock in the future that may adversely impact your rights as holders of our common stock.***

Our articles of incorporation, as amended, authorize us to issue shares of preferred stock in various series. Currently, we have 51 shares of Series B Preferred Stock issued and outstanding, which shares have voting control of the Company. Each share of our Series A Preferred Stock is convertible into 200 shares of our common stock although no shares of this series are outstanding. Each shares of our Series D Convertible Preferred Stock is convertible into two shares of our common stock. In addition, our board of directors has the authority to fix and determine the relative rights and preferences of our authorized but undesignated preferred stock, as well as the authority to issue shares of such preferred stock, without further stockholder approval. As a result, our board of directors could authorize the issuance of a series of preferred stock that would grant to holders preferred rights to our assets upon liquidation, the right to receive dividends before dividends are declared to holders of our common stock, and the right to the redemption of such preferred stock, together with a premium, prior to the redemption of the common stock. To the extent that we do issue such additional shares of preferred stock, your rights as holders of common stock could be impaired thereby, including, without limitation, dilution of your ownership interests in us. In addition, shares of preferred stock could be issued with terms calculated to delay or prevent a change in control or make removal of management more difficult, which may not be in your interest as a holder of common stock.

***Our common stock is quoted on the OTCBB which may have an unfavorable impact on our stock price and liquidity.***

Our common stock is quoted on the OTCBB. The OTCBB is a significantly more limited market than the New York Stock Exchange or the NASDAQ Stock Market. The quotation of our shares on the OTCBB may result in a less liquid market available for existing and potential stockholders to trade shares of our common stock, could depress the trading price of our common stock and could have a long-term adverse impact on our ability to raise capital in the future.

***Nevada corporations laws limit the personal liability of corporate directors and officers and require indemnification under certain circumstances.***

Section 78.138(7) of the Nevada Revised Statutes provides that, subject to certain very limited statutory exceptions or unless the articles of incorporation provide for greater individual liability, a director or officer of a Nevada corporation is not individually liable to the corporation or its stockholders for any damages as a result of any act or failure to act in his or her capacity as a director or officer, unless it is proven that the act or failure to act constituted a breach of his or her fiduciary duties as a director or officer and such breach involved intentional misconduct, fraud or a knowing violation of law. We have not included in our articles of incorporation any provision intended to provide for greater liability as contemplated by this statutory provision.

In addition, Section 78.7502(3) of the Nevada Revised Statutes provides that to the extent a director or officer of a Nevada corporation has been successful on the merits or otherwise in the defense of certain actions, suits or proceedings (which may include certain stockholder derivative actions), the corporation shall indemnify such director or officer against expenses (including attorneys' fees) actually and reasonably incurred by such director or officer in connection therewith.

## **Item 2. Properties**

Our corporate headquarters is located in Denver, Colorado. This commercial office building is 30,302 square feet and includes, a full performance training center, medical laboratory and a 96-seat theatre room. The term of the lease is 65 months, expiring on December 31, 2015. We currently pay approximately \$13,500 in lease payments per month.

We lease an office and distribution warehouse in Boise, Idaho. The warehouse is 6,035 square feet and expired in February 2013. We currently pay approximately \$3,500 per month in rent. The office is 4,776 square feet with a term of two years, expiring October 31, 2014. We currently pay approximately \$4,400 per month for this lease.

We lease a 64,000 square foot warehouse facility in Franklin, Tennessee. The term of the lease is through August 31, 2015. We currently pay approximately \$9,450 per month for rent.

Through our Ontario, Canada subsidiary, Canada MusclePharm Enterprises Corp., we lease a 10,000 square foot office and warehouse facility in Hamilton, Ontario, Canada. The term of the lease expires on March 31, 2013. We currently pay 6,655 in Canadian dollars (or the U.S. dollar equivalent of about \$6,544) per month for rent.

## **Item 3. Legal Proceedings**

From time to time, we have become involved in various legal proceedings that arise in the ordinary course of business or otherwise. Legal proceedings are subject to inherent uncertainties as to timing, outcomes, costs, expenses and time expenditures by our management and others on our behalf. Although there can be no assurance, based on information currently available, we believe that the outcome of legal proceedings that are pending or threatened against us will not have a material effect on our financial condition. However, the outcome of any of these matters is neither probable nor reasonably estimable.

The legal proceedings information set forth under “Commitments, Contingencies and Other Matters” in Note 9(B) to the accompanying consolidated financial statements included in this Annual Report on Form 10-K is incorporated herein by reference.

## **Item 4. Mine Safety Disclosures**

None.

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**PART II**

**Item 5. Market for Registrant’s Common Equity, Related Stockholder Matters and Issuer Purchases of Equity Securities**

The following table shows the reported high and low bid quotations per share for our common stock based on information provided by the OTCBB. Our common is quoted on the OTCBB under the symbol “MSLP.OB”. These prices reflect the 1-for-850 reverse stock split of our common stock that we effected on November 26, 2012.

	High	Low
2012		
Fourth Quarter	\$6.21	\$3.40
Third Quarter	\$17.43	\$5.02
Second Quarter	\$31.88	\$10.20
First Quarter	\$31.03	\$5.10
2011		
Fourth Quarter	\$22.10	\$5.95
Third Quarter	\$33.15	\$11.90
Second Quarter	\$68.85	\$21.25
First Quarter	\$110.50	\$30.60

Quotations on the OTCBB reflect bid and ask quotations, may reflect inter-dealer prices, without retail markup, markdown or commission, and may not represent actual transactions.

The Company’s transfer agent is Corporate Stock Transfer, Inc. Their business address is 3200 Cherry Creek Drive South, Suite 430 Denver, CO 80209.

As of March 29, 2013, there were approximately 420 holders of record of our common stock. This figure does not take into account those stockholders whose certificates are held in street name by brokers and other nominees. We estimate that such holders number approximately 3,700.

At March 29, 2013 the Company’s issued and diluted shares were as follows:

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Shares issued and outstanding at December 31, 2012	2,747,308
Series D Preferred Stock converted to Common Stock through March 29, 2013	2,352,250
Net shares issued through March 29, 2013	1,667,089
Shares issued and outstanding at March 29, 2013	6,776,647
Series D Preferred Stock not yet converted	647,750
Shares awaiting authorization for issuance	307,506
Unvested executive stock awards	86,275
Fully Diluted as of March 29, 2013	7,818,178

Unregistered Sale of Securities

*Series D Preferred Stock Issuances*

Between January 16, 2013 and February 4, 2013, the Company issued an aggregate of 1,500,000 shares of Series D Preferred Stock for aggregate gross proceeds of approximately \$12 million.

*Common Stock Issuances*

Between October and November 2012 the Company issued 16,908 shares of common stock in accordance with consulting agreements valued at \$106,200.

In December 2012 the Company issued 50,000 shares of common stock valued at \$549,950 for interest on debt.

Between February and March 2013 the Company issued 2,352,250 shares of common stock pursuant to the conversion of 1,176,125 shares of Series D preferred stock.

In March 2013 the Company issued 142,282 shares of common stock pursuant to the ratchet provisions in the July 2012 securities purchase agreements which are valued at \$853,692.

In March 2013 the Company issued an aggregate 741,017 shares of common stock pursuant consulting agreements valued at approximately \$6,297,694.

In March 2013 the Company issued an aggregate 43,137 shares of common stock pursuant the vesting of stock awards valued at \$294,167.

In March, 2013, the Company an aggregate 705,883 shares of common stock through a private placement to several investors for \$6,000,000.

#### Dividend Policy

We have never declared dividends on our common stock, and currently do not plan to declare dividends on shares of our common stock in the foreseeable future. We expect to retain our future earnings, if any, for use in the operation and expansion of our business. Subject to the foregoing, the payment of cash dividends in the future, if any, will be at the discretion of our board of directors and will depend upon such factors as earnings levels, capital requirements, our overall financial condition and any other factors deemed relevant by our board of directors.

#### **Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations**

The following discussion and analysis should be read together with our consolidated financial statements and the related notes thereto reflected in the index to the consolidated financial statements in this report. This discussion contains forward-looking statements reflecting our current expectations that involve risks and uncertainties. See



“Forward-Looking Statements” for a discussion of the uncertainties, risks and assumptions associated with these statements. Actual results and the timing of events could differ materially from those discussed in our forward-looking statements as a result of many factors, including those set forth under “Risk Factors” and elsewhere in this report. All share amounts and per share amounts in “Management’s Discussion and Analysis of Financial Condition and Results of Operations” reflect the 1-for-850 reverse stock split of our common stock that we effected on November 26, 2012.

## **Plan of Operation**

We develop, market and sell athlete-focused, high quality nutritional supplements primarily to specialty resellers. Our propriety and award winning products address active lifestyles including muscle building, weight loss, and maintaining general fitness through a daily nutritional supplement regimen. Our products are available in over 10,500 U.S. retail outlets, including Dick’s Sporting Goods, GNC, Vitamin Shoppe and Vitamin World. We also sell our products in over 100 online channels, including bodybuilding.com, amazon.com, gnc.com and vitacost.com. Internationally, our nutritional supplements are sold in approximately 90 countries, and we expect that international sales will be a significant part of our sales for the foreseeable future.

Our primary growth strategy is to:

- (1) increase our product distribution and sales through increased market penetrations both domestically and internationally;
- (2) increase our margins by focusing on streamlining our operations and seeking operating efficiencies in all areas of our operations;
- (3) continue to conduct additional testing of the safety and efficacy of our products and formulate new products; and
- (4) increase awareness of our products by increasing our marketing and branding opportunities through endorsements, sponsorships and brand extensions.

Our core marketing strategy is to brand MusclePharm as the “must have” fitness brand for workout enthusiasts and elite athletes. We seek to be known as The Athletes Company®, run by athletes who create their products for other athletes both professional and otherwise. We believe that our marketing mix of endorsers, sponsorships and providing sample products for our retail resellers to use is an optimal strategy to increase sales.

## Results of Operations

*Year ended December 31, 2012 compared to the year ended December 31, 2011.*

	Year Ended December 31,	
	2012	2011
Sales – net	\$67,055,215	\$17,212,636
Cost of sales	52,726,934	14,845,069
Gross profit	14,328,281	2,367,567
General and administrative expenses	23,064,092	18,587,727
Loss from operations	(8,735,811 )	(16,220,160)
Other expense	(10,216,984)	(7,060,790 )
Net loss	(18,952,795)	(23,280,950)
Net loss per share – basic and diluted	\$(13.00 )	\$(70.30 )
Weighted average number of common shares outstanding during the period – basic and diluted	1,458,757	331,159

## Revenues

Our net revenues increased 290% to approximately \$67.1 million for the year ended December 31, 2012, compared to approximately \$17.2 million for the year ended December 31, 2011. Sales during the year ended December 31, 2012 increased due to increased awareness of our product brand. We have focused on an aggressive marketing plan to penetrate the market, as such, significant expenditures related to advertising and promotions have been experienced. The sales increase was also the result of capital spent on marketing and brand recognition with distributors along with endorsements and sponsorships. The Company’s many efforts for growth included hiring new managers, additional sales and marketing staff, along with adding new products in an effort to continue to expand our customer base. Another growth area was sales in the international markets. International sales are included in the results of operations and increased approximately \$16.2 million or 405% to \$20.2 million for the year ended December 31, 2012, compared to \$4.0 million for the year ended December 31, 2011.

Overall as a direct result of our aggressive marketing plan, our products are currently being offered in more retail stores, both domestically and internationally, receiving better shelf placement, and receiving recognized awards compared to the prior period. The Company has an exclusive marketing arrangement with the UFC, Ultimate Fighting Championships, which has called out MusclePharm as the Supplement of Choice for the UFC and at the 2012 Bodybuilding.com Supplement Awards, we received three Awards of Excellence; (i) the “Brand of the Year” award, (ii) the “Packaging of the Year” award, and (iii) the “Pre-Workout Supplement of the Year” award for Assault™

### *Gross Profit*

Gross profit for the year ended December 31, 2012 was approximately \$14.3 million or 21% of revenue, compared to approximately \$2.4 million or 14% of revenue for the year ended December 31, 2011. The increase was primarily due to the reduction to discounts as a percentage of sales and favorable terms for manufacturing improvements in product pricing. For the year ended December 31, 2012, the discounts and allowances as a percentage of sales was 14% compared to the year ended December 31, 2011 which was 19%. We expect our focus on streamlining operations will increase our operating efficiencies and will further improve our gross profit percentage.

*General and Administrative Expenses*

General and administrative expenses for the year ended December 31, 2012 increased to \$23.1 million, compared to \$18.6 million for the year ended December 31, 2011. Our 290% sales growth necessitated substantial increases in our general and administrative expenses and included \$2.2 million in advertising and promotions and \$2.4 million in sponsorship and endorsements all used to promote brand and product awareness. We expect as we continue to promote our brand and products, these areas and levels of promotion will hold steady or increase relative to overall efforts to increase product awareness and sales. Salaries and benefits, excluding executive bonuses, also increased by \$1.3 million; however, these were approximately 5% of sales for 2012 compared to approximately 11% of sales in the 2011 period.

Increases in investment advisory and legal fees of \$3.1 million were a result of efforts required to obtain financing and dispute resolutions along with two consulting contracts that require us to issue 8.4% of our common stock on an ongoing, fully diluted basis.

The increase in all other general administrative areas of \$4.3 million along with significant items listed above, were partially offset by the decrease in stock based compensation of approximately \$8.6 million.

The following table provides an overview of expense categories and percentage of net revenue:

	2012 (\$)	% of Revenue		2011 (\$)	% of Revenue	
Advertising Expense	\$8,430,401	12.6	%	\$5,241,585	30.5	%
Operating Expense	5,512,197	8.2	%	5,277,500	30.7	%
Professional & R&D Expense	4,524,964	6.7	%	888,695	5.1	%
Salary and Wage Expense	4,596,530	6.9	%	7,179,947	41.7	%
Total G&A Expense	\$23,064,092	34.4	%	\$18,587,727	108	%

*Operating Loss*

Operating loss for the year ended December 31, 2012 was approximately \$8.7 million, compared to approximately \$16.2 million for the year ended December 31, 2011.

*Interest Expense*

Interest expense for the year ended December 31, 2012 was approximately \$7.3 million, as compared to approximately \$3.7 million for the year ended December 31, 2011. The increase in interest expense primarily relates to increased interest on debt of \$0.6 million, increased amortization of debt issuance costs of \$0.1 million and increased amortization of debt discounts of \$2.9 million during the year ended December 31, 2012.

*Other Expense*

Other expenses for the year ended December 31, 2012 were approximately \$10.2 million, compared to approximately \$7.1 million for the year ended December 31, 2011, an increase of 44.7%. The components of our other expense are as follows:

	Year Ended December 31,	
	2012	2011
Derivative expense	\$(4,409,214 )	\$(4,777,654)
Change in fair value of derivative liabilities	5,899,968	5,162,100
Loss on settlement of accounts payable, debt and conversion of Series C preferred stock (2012 only)	(4,447,732 )	(3,862,458)
Interest expense	(7,335,070 )	(3,711,278)
Foreign currency transaction gain	15,030	-
Licensing income	10,000	250,000
Other income (expense)	50,034	(121,500 )
	\$(10,216,984)	\$(7,060,790)

*Net Loss*

Net loss for the year ended December 31, 2012 was approximately \$19 million, or \$(13.00) per share, compared to the net loss of approximately \$23.3 million or \$(70.30) per share, for the year ended December 31, 2011. Inflation did not have a material impact on our operations for the years ended December 31, 2012 and 2011.

**Liquidity and Capital Resources**

The following table summarizes total current assets, liabilities and working deficit at December 31, 2012, compared to December 31, 2011:

	At December 31, 2012	At December 31, 2011	Increase/(Decrease)
Current Assets	\$ 4,949,881	\$ 4,016,833	\$ 933,048
Current Liabilities	16,520,456	17,710,100	(1,189,644 )
Working Deficit	\$ (11,570,575	) \$ (13,693,267	) \$ (2,122,692 )

Our primary source of operating cash has been from the sale of equity, the issuance of convertible secured promissory notes and other short-term debt as discussed below.

Company's management believes that with increased sales expansion and the opening of the Franklin, Tennessee distribution center, there will be opportunities to increase sales; however, the Company may need to continue to raise capital in order execute the business plan, which includes buying more inventory and broadening the sales platform. There can be no assurance that such capital will be available on acceptable terms or at all.

On December 4, 2012, we entered into a \$1.0 million bridge loan to provide us with short-term financing. In connection with the bridge loan, we entered into a subscription agreement with six subscribers pursuant to which we issued an aggregate \$1.0 million principal amount of promissory notes and 50,000 shares of common stock to the subscribers. The promissory notes were repaid in January 2013. Additionally, we granted the subscribers "piggy-back" registration rights for the shares of common stock in certain circumstances.

At December 31, 2012, we had cash of \$0 and a working capital deficit of approximately \$11.6 million, compared to cash of approximately \$0.7 million and a working capital deficit of approximately \$13.7 million at December 31, 2011. The working capital deficit decrease of approximately \$2.1 million was primarily due to a net decrease in derivative liabilities of approximately \$7.0 million, an increase in accounts receivable of approximately \$0.7 million, offset by an increase in customer deposits of approximately \$0.3 million, an increase in the current portion of debt of approximately \$3.2 million and an increase in accounts payable and accrued liabilities of approximately \$2.4million.

Cash used in operating activities was approximately \$0.7 million for the year ended December 31, 2012, as compared to cash used in operating activities of approximately \$5.8 million for the year ended December 31, 2011. The decrease in cash used in operating activities of approximately \$5.1 million was primarily due to a decrease in net loss of approximately \$4.3 million, an increased payables and customer deposits of approximately \$4.3 million, an increase in depreciation and amortization of approximately \$0.3 million, a decrease in accounts receivable of approximately \$1.5 million and an increase in amortization expense of approximately \$2.3 offset by a decrease in stock and warrants issued for services of approximately \$3.4 million, a decrease in losses related to repayments and conversions of debt of approximately \$0.6 million, a decrease in derivative expense and fair value changes of approximately \$1.1 million and a increases in prepaids, inventory, and other assets of approximately \$1.2 million.

Cash used in investing activities increased to \$965,327 from \$831,511 for the year ended December 31, 2012 and 2011, respectively, due to slightly higher spending on fixed assets. Future investments in property and equipment, as well as further development of our Internet presence will largely depend on available capital resources.

Cash flows provided by financing activities were approximately \$1 million for the year ended December 31, 2012, compared to cash flows provided by financing activities of approximately \$7.2 million for the year ended December 31, 2011. The approximately \$6.2 million decrease was due to primarily to the approximately \$5.8 million in repayment of debt and approximately \$0.5 million for the purchase of treasury stock offset by an increase in proceeds from issuance of debt of approximately \$0.8 million offset by an increase in proceeds from issuance of common stock and warrants of approximately \$0.7 million.

	Year Ended December	
	31,	2011
	2012	2011
Cash Flows From Financing Activities:		
Proceeds from issuance of debt	\$5,823,950	\$6,612,900
Repayment of debt	(5,847,575)	(75,285 )
Debt issuance costs	(234,450 )	(263,283 )
Repurchase of common stock	(460,978 )	-
Proceeds from issuance of preferred stock	-	100,000
Proceeds from issuance of common stock and warrants – net of recapitalization payment	1,660,760	875,000
Cash overdraft	69,370	-
Net Cash (Used In) Provided By Financing Activities	\$1,011,077	\$7,249,332

## Financing

Our primary source of operating cash had been through the sale of equity and debt which included the issuance of secured and unsecured promissory notes, some debt had conversion rights to equity and a recent bridge loan in the fourth quarter of 2012.

In the fourth quarter of 2012, the Company filed a Form S-1 registration statement whereby the Company offered preferred stock for \$8.00 that was convertible into two shares of common stock, subject to adjustment. This registration was not fully completed until February 4, 2013; whereby, the Company issued 1.5 million shares of Series D Convertible Preferred Stock in exchange for gross proceeds of \$12 million. The Company's net proceeds from the offering were approximately \$10.8 million after placement agent discounts, and other offering expenses of \$1.2 million.

On March 26, 2013, the Company entered into subscription agreements with non-affiliated accredited investors for the issuance of 705,882 shares of common stock pursuant to exemptions from registration under federal and state securities laws. The shares of common stock were sold for \$8.50 per share. The gross proceeds to the Company of \$6.0 million were reduced by commissions and issuance costs of \$115,000.

Company management believes that with increased sales expansion and the opening of the Franklin, Tennessee distribution center, there will be opportunities to increase sales; however, the Company may need to continue to raise capital in order execute the business plan, which includes buying more inventory and broadening the sales platform. There can be no assurance that such capital will be available on acceptable terms or at all

## Off-Balance Sheet Arrangements



Other than the operating leases detailed below, as of December 31, 2012, the company did not have any off-balance sheet arrangements. The Company is obligated under an operating lease for the rental of office space and a 152,000 square foot distribution center in Franklin, Tennessee. Future minimum rental commitments with a remaining term in excess of one year as of December 31, 2012 are summarized as follows:

Years Ending December 31,	
2013	\$333,902
2014	436,688
2015	311,209
Total minimum lease payments	\$1,081,799

## **Critical Accounting Policies and Estimates**

The preparation of financial statements in conformity with U.S. Generally Accepted Accounting Principles (“GAAP”) requires 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 revenues and expenses during the reporting period.

Making estimates requires management to exercise significant judgment. It is at least reasonably possible that the estimate of the effect of a condition, situation or set of circumstances that existed at the date of the financial statements, which management considered in formulating its estimate could change in the near term due to one or more future non-conforming events. Accordingly, the actual results could differ significantly from estimates.

### *Risks and Uncertainties*

The company operates in an industry that is subject to rapid change and intense competition. Our company operations are subject to significant risk and uncertainties including financial, operational, technological, regulatory and other risks, including the potential risk of business failure.

### *Principles of Consolidation*

All intercompany accounts and transactions have been eliminated in consolidation.

### *Accounts Receivable and Allowance for Doubtful Accounts*

Accounts receivable represents trade obligations from customers that are subject to normal trade collection terms. The company evaluates monthly the collectability of our accounts receivable and considers the need to establish an allowance for doubtful accounts based upon historical collection experience and specific customer information. Accordingly, the actual amounts could vary from the recorded allowances.

Management performs ongoing evaluations of the company's customers' financial condition and generally do not require collateral. Some international customers are required to pay for their orders in advance of shipment. Management reviews accounts receivable monthly and reduces the carrying amount by a valuation allowance that reflects management's best estimate of amounts that may not be collectible. Allowances, if any, for uncollectible accounts receivable are determined based upon information available and historical experience.

The company does not charge interest on past due receivables. Receivables are determined to be past due based on the payment terms of the original invoices. The Company's finance department contacts all past due customers to request payment.

#### *Fair Value of Financial Instruments*

We measure assets and liabilities at fair value based on an expected exit price as defined by the authoritative guidance on fair value measurements, which represents the amount that would be received on the sale of an asset or paid to transfer a liability, as the case may be, in an orderly transaction between market participants. As such, fair value may be based on assumptions that market participants would use in pricing an asset or liability. The authoritative guidance on fair value measurements establishes a consistent framework for measuring fair value on either a recurring or nonrecurring basis whereby inputs, used in valuation techniques, are assigned a hierarchical level.

The following are the hierarchical levels of inputs to measure fair value:

·Level 1: Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2: Inputs reflect quoted prices for identical assets or liabilities in markets that are not active; quoted prices for similar assets or liabilities in active markets; inputs other than quoted prices that are observable for the assets or liabilities; or inputs that are derived principally from or corroborated by observable market data by correlation or other means.

·Level 3: Unobservable inputs reflecting our assumptions incorporated in valuation techniques used to determine fair value. These assumptions are required to be consistent with market participant assumptions that are reasonably available.

The following are the major categories of liabilities measured at fair value on a recurring basis as of December 31, 2012 and 2011, using quoted prices in active markets for identical liabilities (Level 1); significant other observable inputs (Level 2); and significant unobservable inputs (Level 3):

	As of
	December 31,
	2012
	2011
Derivative liabilities (Level 2)	\$- \$7,061,238

### *Revenue Recognition*

We record revenue when all of the following have occurred: (1) persuasive evidence of an arrangement exists, (2) product has been shipped or delivered, (3) the sales price to the customer is fixed or determinable, and (4) collectability is reasonably assured.

Depending on individual customer agreements, sales are recognized either upon shipment of products to customers or upon delivery. We record sales allowances and discounts as a direct reduction of sales.

We have determined that advertising related credits that were granted to customers fell within the guidance of ASC No. 605-50-55 (“*Revenue Recognition*” – *Customer Payments and Incentives – Implementation Guidance and Illustrations*). The guidance indicates that, absent evidence of benefit to the vendor, appropriate treatment requires netting these types of payments against revenues and not expensing as advertising expense.

We have an informal seven day right to return products. There were nominal returns at the years ended December 31, 2012 and 2011.

### *Foreign Currency*

We began operations in Canada in April 2012. The Canadian Dollar was determined to be the functional currency as the majority of the transactions related to the day to day operations of the business are exchanged in Canadian Dollars. At the end of the period, the financial results of the Canadian operation are translated into the United States Dollar, which is the reporting currency, and added to the U.S. operations for consolidated company financial results. The revenue and expense items are translated using the average rate for the period and the assets and liabilities at the end

of period rate. Transactions that have completed the accounting cycle and resulted in a gain or loss related to translation are recorded in realized gain or loss due to foreign currency translation under other income expense on the statements of operations and comprehensive income. Transactions that have not completed their accounting cycle but appear to have gain or loss due to the translation process are recorded as unrealized gain or loss due to translation and held in the equity section on the balance sheet until such date the accounting cycle of a transaction is complete and the actual realized gain or loss is recognized.

#### *Beneficial Conversion Feature*

For conventional convertible debt where the rate of conversion is below market value, we record a “beneficial conversion feature” (“BCF”) and related debt discount.

When we record a BCF, the relative fair value of the BCF would be recorded as a debt discount against the face amount of the respective debt instrument. The discount would be amortized to interest expense over the life of the debt.

#### *Derivative Liabilities*

Fair value accounting requires bifurcation of embedded derivative instruments such as conversion features in convertible debt or equity instruments, and measurement of their fair value for accounting purposes. In determining the appropriate fair value, we use the Black-Scholes option-pricing model. In assessing the convertible debt instruments, management determines if the convertible debt host instrument is conventional convertible debt and further if there is a beneficial conversion feature requiring measurement. If the instrument is not considered conventional convertible debt, we will continue our evaluation process of these instruments as derivative financial instruments.

Once determined, derivative liabilities are adjusted to reflect fair value at each reporting period end, with any increase or decrease in the fair value being recorded in results of operations as an adjustment to fair value of derivatives. In addition, the fair value of freestanding derivative instruments such as warrants, are also valued using the Black-Scholes option-pricing model.

#### *Debt Issue Costs and Debt Discount*

We may pay debt issue costs, and record debt discounts in connection with raising funds through the issuance of convertible debt. These costs are amortized over the life of the debt to interest expense. If a conversion of the underlying debt occurs, a proportionate share of the unamortized amounts is immediately expensed.

#### *Original Issue Discount*

For certain convertible debt issued, we provide the debt holder with an original issue discount. The original issue discount is recorded to debt discount and additional paid in capital at an amount not to exceed gross proceeds raised, reducing the face amount of the note and is amortized to interest expense over the life of the debt.

#### *Share-Based Payments*

Generally, all forms of share-based payments, including stock option grants, warrants, restricted stock grants and stock appreciation rights are measured at their fair value on the awards' grant date, based on estimated number of awards that are ultimately expected to vest. Share-based compensation awards issued to non-employees for services rendered are recorded at either the fair value of the services rendered or the fair value of the share-based payment, whichever is more readily determinable.

#### *Recent Accounting Pronouncements*

In May 2011, the Financial Accounting Standards Board ("FASB") issued Accounting Standards Update ("ASU") No. 2011-04 "Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in GAAP and International Financial Reporting Standards ("IFRS"). ASU 2011-04 includes common requirements for measurement of and disclosure about fair value between GAAP and IFRS. ASU 2011-04 requires reporting entities to disclose additional information for fair value measurements categorized within Level 3 of the fair value hierarchy. In addition,

ASU 2011-04 requires reporting entities to make disclosures about amounts and reasons for all transfers in and out of Level 1 and Level 2 fair value measurements. The new and revised disclosures are effective for interim and annual reporting periods beginning after December 15, 2011. This pronouncement has been implemented in the Company's financial statements for the year ended December 31, 2012 without impact.

**Item 8. Consolidated Financial Statements and Supplementary Data**

**INDEX TO CONSOLIDATED FINANCIAL STATEMENTS**

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders

MusclePharm Corporation

Denver, Colorado

We have audited the accompanying consolidated balance sheet of MusclePharm Corporation and subsidiary (the "Company") as of December 31, 2012, and the related consolidated statements of operations and comprehensive income, stockholders' equity (deficit), and cash flows for the year then ended. 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 audit.

We conducted our audit in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the consolidated financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audit included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit also includes examining, on a test basis, evidence supporting the amounts and disclosures in the consolidated financial statements and assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audit provides a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the consolidated financial position of MusclePharm Corporation and subsidiary as of December 31, 2012, and the results of their operations and their cash flows for the year then ended in conformity with accounting principles generally accepted in the United States of America.

/s/ EKS&H LLLP

March 29, 2013

Denver, Colorado

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**REPORT OF INDEPENDENT REGISTERED PUBLIC ACCOUNTING FIRM**

To the Board of Directors and Stockholders of:

MusclePharm Corporation

We have audited the accompanying consolidated balance sheets of MusclePharm Corporation and Subsidiary as of December 31, 2011, and the related consolidated statements of operations, stockholders' deficit and cash flows for the year then ended. 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 in accordance with the standards of the Public Company Accounting Oversight Board (United States). Those standards require that we plan and perform the audit to obtain reasonable assurance about whether the financial statements are free of material misstatement. The Company is not required to have, nor were we engaged to perform, an audit of its internal control over financial reporting. Our audits included consideration of internal control over financial reporting as a basis for designing audit procedures that are appropriate in the circumstances, but not for the purpose of expressing an opinion on the effectiveness of the Company's internal control over financial reporting. Accordingly, we express no such opinion. An audit includes examining, on a test basis, evidence supporting the amounts and disclosures in the financial statements. An audit also includes assessing the accounting principles used and significant estimates made by management, as well as evaluating the overall financial statement presentation. We believe that our audits provide a reasonable basis for our opinion.

In our opinion, the financial statements referred to above present fairly, in all material respects, the financial position of MusclePharm Corporation and Subsidiary as of December 31, 2011, and the results of its operations and its cash flows for the year then ended, in conformity with accounting principles generally accepted in the United States of America.

The accompanying financial statements have been prepared assuming that the Company will continue as a going concern. As discussed in Note 2 to the financial statements, the Company has a net loss of \$23,280,950 and net cash used in operations of \$5,801,761 for the year ended December 31, 2011; and has a working capital deficit of \$13,693,267, and a stockholders' deficit of \$12,971,212 at December 31, 2011. These factors raise substantial doubt about the Company's ability to continue as a going concern. Management's plan in regards to these matters is also described in Note 2.

Berman & Company, P.A.

Boca Raton, Florida

April 13, 2012 except for Note 1 as to which the date is June 28, 2012

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**MusclePharm Corporation and Subsidiary****Consolidated Balance Sheets**

	December 31,	
	2012	2011
Assets		
Current Assets:		
Cash	\$-	\$659,764
Cash – restricted	9,148	-
Accounts receivable – net	3,302,344	2,569,092
Inventory	257,975	-
Prepaid giveaways	358,800	-
Prepaid stock compensation	44,748	534,456
Prepaid sponsorship fees	6,249	203,333
Deferred equity costs	698,500	-
Other	272,117	50,188
Total current assets	4,949,881	4,016,833
Property and equipment – net	1,356,364	907,522
Debt issue costs – net	335,433	68,188
Other assets	125,049	53,585
Total assets	\$6,766,727	\$5,046,128
Liabilities and Stockholders' Deficit		
Current Liabilities:		
Accounts payable and accrued liabilities	\$11,721,205	\$9,359,073
Customer deposits	336,211	8,047
Debt – net	4,463,040	1,281,742
Derivative liabilities	-	7,061,238
Total Current Liabilities	16,520,456	17,710,100
Long Term Liabilities:		
Debt – net	4,523	307,240
Total Liabilities	\$16,524,979	\$18,017,340
Commitments and contingencies:		
Stockholders' Deficit:		
Preferred stock, \$0.001 par value, Series A Convertible Preferred Stock, 5,000,000 shares authorized, none issued and outstanding	-	-
Preferred stock, \$0.001 par value, Series B Preferred Stock, 51 shares authorized, 51 shares issued and outstanding	-	-
Preferred stock, \$0.001 par value, Series C Convertible Preferred Stock, 500 shares authorized, 190 and 190 issued none and 190 outstanding	-	-
Common Stock, \$0.001 par value; 100,000,000 shares authorized, 2,778,404 and 712,860 issued and 2,747,308 and 712,860 outstanding	2,778	713
Treasury Stock, at cost; 31,096 and zero shares	(460,978 )	-
Additional paid-in capital	54,817,341	32,184,756
Accumulated deficit	(64,109,476)	(45,156,681)
Accumulated other comprehensive loss	(7,917 )	-

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Total Stockholders' Deficit	(9,758,252 )	(12,971,212)
Total Liabilities and Stockholders' Deficit	\$6,766,727	\$5,046,128

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

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**MusclePharm Corporation and Subsidiary****Consolidated Statements of Operations and Comprehensive Income**

	Year Ended December 31,	
	2012	2011
Sales - net	\$67,055,215	\$17,212,636
Cost of sales	52,726,934	14,845,069
Gross profit	14,328,281	2,367,567
General and administrative expenses	23,064,092	18,587,727
Loss from operations	(8,735,811 )	(16,220,160)
Other expense		
Derivative expense	(4,409,214 )	(4,777,654 )
Change in fair value of derivative liabilities	5,899,968	5,162,100
Loss on settlement of accounts payable, debt and conversion of Series C preferred stock (2012 only)	(4,447,732 )	(3,862,458 )
Interest expense	(7,335,070 )	(3,711,278 )
Foreign currency transaction gain	15,030	-
Licensing income	10,000	250,000
Other income (expense)	50,034	(121,500 )
Total other expense	(10,216,984)	(7,060,790 )
Net loss	\$(18,952,795)	\$(23,280,950)
Net loss available to common stockholders		
Net loss	(18,952,795)	(23,280,950)
Series C Preferred Stock dividend	-	(293 )
Net loss available to common stockholders	\$(18,952,795)	\$(23,280,657)
Net income (loss) per share available to common stockholders – basic and diluted	\$(13.00 )	\$(70.30 )
Weighted average number of common shares outstanding during the period – basic and diluted	1,458,757	331,158
Other comprehensive income		
Net change in Foreign currency translation	(7,917 )	-
Total other comprehensive income (loss)	(7,917 )	-
Total comprehensive income (loss)	\$(18,960,712)	\$(23,280,657)

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

**MusclePharm Corporation and Subsidiary**

**Consolidated Statement of Stockholders' Deficit**

**Years ended December 31, 2012 and 2011**

	Series A Preferred Stock		Series B Preferred Stock		Series C Convertible Preferred Stock		Common Stock	Additional Paid-in Capital	Treasury Stock	Accumulated Deficit	Accumulated Translations	
	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Shares	Amount	Amount	
Balance - December 31, 2010	-	\$-	-	\$-	-	\$-	139,585	\$140	\$20,130,631	\$-	\$(21,875,438)	\$-
Issuance of common and preferred stock:												
Conversion of convertible debt	-	-	-	-	-	298,897	299	4,268,558	-	-	-	-
Conversion of secured/unsecured debt	-	-	-	-	-	47,386	47	857,905	-	-	-	-
Cash	-	-	-	-	-	96,471	96	874,904	-	-	-	-
Cash	-	-	-	-	100	-	-	100,000	-	-	-	-
Services - third parties	-	-	-	-	-	54,731	55	1,199,789	-	-	-	-
Services - third parties	-	-	-	-	90	-	-	90,000	-	-	-	-
Services - third parties - future services	-	-	-	-	-	4,706	5	214,245	-	-	-	-
Extension of debt maturity date	-	-	-	-	-	11,030	11	161,239	-	-	-	-
Settlement of accounts payable	-	-	-	-	-	64,172	64	3,646,655	-	-	-	-
Cancellation of shares	-	-	-	-	-	(4,118)	(4)	4	-	-	-	-
Share based payments - related parties	-	-	51	-	-	-	-	-	-	-	-	-
Dividends on Series C Convertible Preferred Stock - related parties	-	-	-	-	-	-	-	-	-	(293)	-	-
Reclassification of derivative liability to additional paid in capital	-	-	-	-	-	-	-	640,826	-	-	-	-
Net loss	-	-	-	-	-	-	-	-	-	(23,280,950)	-	-
Balance - December 31, 2011	-	-	51	-	190	-	712,860	713	32,184,756	-	(45,156,681)	-



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Issuance of common and preferred stock:												
Conversion of preferred shares	-	-	-	-	(190)	-	22,353	22	614,962	-	-	-
Conversion of secured/unsecured debt	-	-	-	-	-	-	290,961	290	1,420,132	-	-	-
Cash	-	-	-	-	-	-	199,422	199	1,660,561	-	-	-
Interest	-	-	-	-	-	-	58,945	58	334,040	-	-	-
Services - third parties	-	-	-	-	-	-	113,740	113	1,107,605	-	-	-
Executive/board compensation	-	-	-	-	-	-	431,034	431	4,686,083	-	-	-
Warrant conversions/settlements	-	-	-	-	-	-	853,082	853	7,294,914	-	-	-
Forbearance of agreement terms	-	-	-	-	-	-	95,528	95	1,239,939	-	-	-
Treasury shares purchased	-	-	-	-	-	-	(31,096	)		(460,978)	-	-
Additional shares from roundup of split shares	-	-	-	-	-	-	479	4	(4	)	-	-
Employee stock awards	-	-	-	-	-	-	-	-	149,966	-	-	-
Reclassification of derivative liability to additional paid in capital	-	-	-	-	-	-	-	-	4,124,387	-	-	-
Translation gain/loss	-	-	-	-	-	-	-	-	-	-	-	(7,91
Net loss	-	-	-	-	-	-	-	-	-	-	(18,952,795)	
Balance - December 31, 2012	-	\$-	51	\$-	-	\$-	2,747,308	\$2,778	\$54,817,341	\$(460,978)	\$(64,109,476)	\$(7,91

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

**MusclePharm Corporation and Subsidiary****Consolidated Statements of Cash Flows**

	Year Ended December 31,	
	2012	2011
Cash Flows From Operating Activities:		
Net loss	\$(18,952,795)	\$(23,280,950)
Adjustments to reconcile net loss to net cash used in operating activities:		
Depreciation	475,320	171,587
Bad debt	9,490	120,477
Warrants issued for services – third parties	-	1,989,982
Stock issued for services – third parties	-	1,289,844
Stock issued to extend maturity date of debt	-	161,250
Amortization of prepaid stock compensation and athlete endorsement stock payments	715,661	1,745,705
Amortization of debt discount	6,122,006	3,237,219
Amortization of debt issue costs	394,964	229,499
Amortization of deferred compensation	149,966	-
Loss on settlement of accounts payable	-	2,123,129
Additional consideration given for early debt retirement	779,500	-
Loss on conversion of debt	351,021	1,739,329
Loss on conversion of preferred shares	614,984	-
Loss on conversion of warrants	315,364	-
Loss on repayment of debt	1,196,321	-
Derivative expense	4,409,214	4,777,654
Executive compensation	231,833	-
Change in fair value of derivative liabilities	(5,899,968 )	(5,162,100 )
Changes in operating assets and liabilities:		
(Increase) decrease in:		
Restricted cash balance	(9,148 )	-
Accounts receivable	(742,742 )	(2,262,808 )
Prepaid and other	(16,098 )	(203,333 )
Deferred equity costs	(698,500 )	-
Inventory and prepaid giveaways	(616,775 )	-
Other	-	7,877
Increase (decrease) in:		
Accounts payable and accrued liabilities	10,144,621	7,581,564
Customer deposits	328,164	(67,686 )
Net Cash Used In Operating Activities	(697,597 )	(5,801,761 )
Cash Flows From Investing Activities:		
Purchase of property and equipment	(924,162 )	(831,511 )
Purchase of other assets	(41,165 )	-
Net Cash Used In Investing Activities	(965,327 )	(831,511 )
Cash Flows From Financing Activities:		

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Proceeds from issuance of debt	5,823,950	6,612,900
Debt issuance costs	(234,450 )	(263,283 )
Repayment of debt	(5,847,575 )	(75,285 )
Repurchase of common stock (treasury stock)	(460,978 )	-
Proceeds from issuance of preferred stock	-	100,000
Proceeds from issuance of common stock and warrants – net of recapitalization payment	1,660,760	875,000
Cash overdraft	69,370	-
Net Cash Provided by Financing Activities	\$1,011,077	\$7,249,332
Effects of foreign currency translation:		
Foreign currency translation loss	(7,917 )	-
Net (decrease) increase in cash	(659,764 )	616,060
Cash at beginning of period	659,764	43,704
Cash at end of period	\$-	\$659,764
Supplemental disclosures of cash flow information:		
Cash paid for interest	\$501,165	\$28,806
Supplemental disclosure of non-cash investing and financing activities:		
Stock issued for future services - third parties	\$1,107,719	\$214,250
Non cash increase in accounts payable related to future services to be paid for with common stock	\$-	\$100,000
Warrants issued in conjunction with debt issue costs	\$427,759	\$-
Debt discount recorded on convertible and unsecured debt accounted for as a derivative liability	\$3,554,672	\$5,473,291
Stock issued to settle accounts payable and accrued interest – third parties	\$1,392,143	\$1,440,779
Conversion of convertible debt and accrued interest for common stock	\$1,069,402	\$3,387,480
Stock issued for interest	\$334,099	\$-
Stock issued to settle accrued executive compensation	\$4,667,764	\$-
Stock issued for board member compensation	\$18,750	\$-
Reclassification of derivative liability to additional paid in capital and warrant settlements (2012 only)	\$9,784,748	\$640,826
Stock issued to acquire equipment	\$-	\$82,811
Auto acquired through financing	\$-	\$26,236
Dividends on Series C Preferred Stock – related parties	\$-	\$293
Stock issued to settle contracts	\$3,932	\$-
Stock issued to settle accrued liabilities	\$384,500	\$-

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

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Note 1: Nature of Operations and Basis of Presentation**

**Nature of Operations**

MusclePharm Corporation and consolidated subsidiary (the “Company”, “we”, “our”, or “MP”) was incorporated in the State of Nevada on August 4, 2006, under the name Tone in Twenty, for the purpose of engaging in the business of providing personal fitness training using isometric techniques. The Company is headquartered in Denver, Colorado.

MusclePharm currently manufactures and markets a wide-ranging variety of high-quality sports nutrition products.

**Basis of Presentation**

The accompanying consolidated financial statements have been prepared in accordance with accounting principles generally accepted in the United States of America (“GAAP”) and the rules and regulations of the United States Securities and Exchange Act of 1934.

**Note 2: Summary of Significant Accounting Policies**

**Principles of Consolidation**

The consolidated financial statements include the accounts of MusclePharm Corporation and its wholly-owned subsidiary MusclePharm Canada Enterprises Corp (“MusclePharm Canada”). MusclePharm Canada began operations in April of 2012. All intercompany accounts and transactions between MusclePharm Corporation and MusclePharm Canada have been eliminated upon consolidation.

### **Use of Estimates**

The preparation of financial statements in conformity with GAAP requires 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 revenues and expenses during the reporting period.

Making estimates requires management to exercise significant judgment. It is at least reasonably possible that the estimate of the effect of a condition, situation or set of circumstances that existed at the date of the financial statements, which management considered in formulating its estimate could change in the near term due to one or more future non-conforming events. Accordingly, the actual results could differ significantly from estimates.

### **Risks and Uncertainties**

The Company operates in an industry that is subject to rapid change and intense competition. The Company's operations will be subject to significant risk and uncertainties including financial, operational, technological, regulatory and other risks, including the potential risk of business failure.

### **Management's Plans with Respect to Liquidity and Capital Resources**

The Company's management believes that with increased sales expansion and the opening of the Franklin, Tennessee distribution center, there will be opportunities to increase sales; however, the Company may need to continue to raise capital in order execute the business plan, which includes buying more inventory and broadening the sales platform. There can be no assurance that such capital will be available on acceptable terms or at all. See Note 12 for subsequent events related to the Company's capital raising efforts.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Cash and Cash Equivalents**

The Company considers all highly liquid instruments purchased with an original maturity of three months or less and money market accounts to be cash equivalents. At December 31, 2012 and 2011, the Company had no cash equivalents.

The Company minimizes its credit risk associated with cash by periodically evaluating the credit quality of its primary financial institution. The balance at times may exceed federally insured limits. At December 31, 2012, there were no balances that exceeded the federally insured limit. At December 31, 2011, there was one account that had a balance that exceeded the federally insured limit by approximately \$378,000.

**Accounts Receivable and Allowance for Doubtful Accounts**

Accounts receivable represents trade obligations from customers that are subject to normal trade collection terms. The accounts receivable are sent directly to the Company's third party manufacturer and netted with any outstanding liabilities to the manufacturer. Liabilities to the manufacturer totaled \$4,224,562 and \$2,100,214 at December 31, 2012 and 2011, respectively, and are included in accounts payable and accrued liabilities. The Company periodically evaluates the collectability of its accounts receivable and considers the need to establish an allowance for doubtful accounts based upon historical collection experience and specific customer information. Accordingly, the actual amounts could vary from the recorded allowances. There is also a review of customer discounts at the period end and an accrual made for discounts earned but not yet received by quarter end.

The Company does not charge interest on past due receivables. Receivables are determined to be past due based on the payment terms of the original invoices. Accounts receivable consisted of the following at December 31, 2012 and 2011:

As of	As of
December 31, 2012	December 31, 2011

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Accounts receivable	\$ 4,416,193	\$ 2,766,776
Less: allowance for discounts	(1,088,720	) -
Less: allowance for doubtful accounts	(25,129	) (197,684
Accounts receivable – net	\$ 3,302,344	\$ 2,569,092

At December 31, 2012 and 2011, the Company had the following concentrations of accounts receivable with customers:

Customer	2012	2011
A	24 %	36 %
B	20 %	7 %
C	6 %	12 %
D	1 %	10 %

**Inventory**

Inventory is valued at the lower of cost or market value. Product-related inventories are primarily maintained using the average cost method.

**Prepaid Giveaways**

Prepaid giveaways represents non-inventory sample items which are given away to aid in promotion of the brand.

**Prepaid Sponsorship Fees**

Prepaid sponsorship fees represents fees paid in connection with future advertising to be received.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Prepaid Stock Compensation**

Prepaid stock compensation represents amounts paid with stock in connection with future contractual benefits to be received. The Company amortizes these contractual benefits over the life of the contracts using the straight-line method.

**Property and Equipment**

Property and equipment are stated at cost and depreciated to their estimated residual value over their estimated useful lives. When assets are retired or otherwise disposed of, the assets and related accumulated depreciation are relieved from the accounts and the resulting gains or losses are included in operating income in the statements of operations. Repairs and maintenance costs are expensed as incurred. Depreciation is provided using the straight-line method for all property and equipment.

**Deferred Equity Costs**

Costs associated with equity offerings are initially classified as deferred equity costs until moneys are received from the sale of equity shares. Upon receipt of funds, the Company nets any deferred equity costs against the gross proceeds recorded as equity.

**Website Development Costs**

Costs incurred in the planning stage of a website are expensed, while costs incurred in the development stage are capitalized and amortized over the estimated useful life of the asset.



## **Long-Lived Assets**

The Company reviews long-lived assets for impairment whenever events or changes in circumstances, such as service discontinuance or technological obsolescence, indicate that the carrying amount of the long-lived asset may not be recoverable. When such events occur, the Company compares the carrying amount of the asset to the undiscounted expected future cash flows related to the asset. If the comparison indicates that impairment is present, the amount of the impairment is calculated as the difference between the excess of the carrying amount over the fair value of the asset. If a readily determinable market price does not exist, fair value is estimated using discounted expected cash flows attributable to the asset. During the years ended December 31, 2012 and 2011, the Company recorded no impairment expense.

## **Fair Value of Financial Instruments**

The Company measures assets and liabilities at fair value based on an expected exit price which represents the amount that would be received on the sale of an asset or paid to transfer a liability, as the case may be, in an orderly transaction between market participants. As such, fair value may be based on assumptions that market participants would use in pricing an asset or liability. The authoritative guidance on fair value measurements establishes a consistent framework for measuring fair value on either a recurring or nonrecurring basis whereby inputs, used in valuation techniques, are assigned a hierarchical level.

The following are the hierarchical levels of inputs to measure fair value:

·Level 1: Observable inputs that reflect quoted prices (unadjusted) for identical assets or liabilities in active markets.

Level 2: Inputs reflect quoted prices for identical assets or liabilities in markets that are not active; quoted prices for similar assets or liabilities in active markets; inputs other than quoted prices that are observable for the assets or liabilities; or inputs that are derived principally from or corroborated by observable market data by correlation or other means.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

Level 3: Unobservable inputs reflecting the Company's assumptions incorporated in valuation techniques used to determine fair value. These assumptions are required to be consistent with market participant assumptions that are reasonably available.

The following are the major categories of liabilities measured at fair value on a recurring basis as of December 31, 2012 and 2011, using quoted prices in active markets for identical liabilities (Level 1); significant other observable inputs (Level 2); and significant unobservable inputs (Level 3):

	As of
	December 31,
	20122011
Derivative liabilities (Level 2)	\$- \$7,061,238

The Company's financial instruments consisted primarily of accounts receivable, accounts payable, accrued liabilities and debt. The Company's debt approximates fair value based upon current borrowing rates available to the Company for debt with similar maturities. The carrying amounts of the Company's financial instruments generally approximated their fair values as of December 31, 2012 and 2011, respectively, due to the short-term nature of these instruments.

**Revenue Recognition**

The Company records revenue when all of the following have occurred: (1) persuasive evidence of an arrangement exists, (2) product has been shipped or delivered, (3) the sales price to the customer is fixed or determinable, and (4) collectability is reasonably assured.

Depending on individual customer agreements, sales are recognized either upon shipment of products to customers or upon delivery. For one of our largest domestic customers (See customer "B" below under concentrations), which represents 12% and 14% of our total revenue for the year ended December 31, 2012 and 2011, revenue is recognized upon delivery.

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The Company has determined that advertising related credits that were granted to customers fell within the guidance of ASC No. 605-50-55 (“*Revenue Recognition*” – *Customer Payments and Incentives – Implementation Guidance and Illustrations*). The guidance indicates that, absent evidence of benefit to the vendor, appropriate treatment requires netting these types of payments against revenues and not expensing as advertising expense.

The Company records store support, giveaways, sales allowances and discounts as a direct reduction of sales. The Company grants volume incentive rebates to certain customers based on contractually agreed percentages once certain thresholds have been met. These volume incentive rebates are recorded as a direct reduction to sales.

Sales for the years ended December 31, 2012 and 2011 are as follows:

	Year Ended December 31,	
	2012	2011
Sales	\$77,768,138	\$21,197,518
Discounts	(10,712,923)	(3,984,882)
Sales – Net	\$67,055,215	\$17,212,636

The Company has an informal 7-day right of return for products. There were nominal returns for the years ended December 31, 2012 and 2011.

For the years ended December 31, 2012 and 2011, the Company had the following concentrations of revenues with customers:

CONCENTRATIONS	Year Ended	
	December 31,	
Customer	2012	2011
A	33 %	41 %
B	12 %	14 %

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Licensing Income and Royalty Revenue**

On May 5, 2011, the Company granted an exclusive indefinite license to a third party for \$250,000. The licensee may market, manufacture, design and sell the Company's existing apparel line. The licensee is obligated to pay the Company a 10% net royalty based on its net income at the end of each fiscal year. To date, no royalty revenue has been earned.

**Cost of Sales**

Cost of sales represents costs directly related to the production, manufacturing and freight of the Company's products.

**Shipping and Handling**

Domestic products sold are shipped directly to the customer from the manufacturer. Costs associated to the shipments are recorded in cost of sales. For Canadian sales, the product is shipped from our Canadian warehouse to our customers and the costs associated with the shipments are recorded as shipping in cost of sales.

**Advertising**

The Company expenses advertising costs when incurred.

Advertising expense for the years ended December 31, 2012 and 2011, are as follows:

	Year Ended December	
	31,	
	2012	2011
Advertising	\$8,430,401	\$5,241,585

## Income Taxes

Income taxes are accounted for using the asset and liability method. Deferred tax assets and liabilities are recognized for the future tax consequences attributable to differences between the financial statement carrying amounts of existing assets and liabilities and their respective tax bases, operating loss and tax credit carry-forwards. Deferred tax assets and liabilities are measured using enacted tax rates expected to apply to taxable income in the years in which those temporary differences are expected to be recovered or settled. The effect on deferred tax assets and liabilities of a change in tax rates is recognized in income in the period that includes the enactment date. Beginning with the adoption of Financial Accounting Standards Board (“FASB”) Interpretation No. 48, *Accounting for Uncertainty in Income Taxes*, (included in FASB ASC Subtopic 740-10, *Income Taxes — Overall*), the Company recognizes the effect of income tax positions only if those positions are more likely than not to be sustained. Recognized income tax positions are measured at the largest amount that is greater than 50% likely to be realized. Changes in recognition or measurement are reflected in the period in which the change in judgment occurs.

The Company records interest and penalties related to unrecognized tax benefits in income tax expense. There were no interest or penalties for the years ended December 31, 2012 and 2011.

## Beneficial Conversion Feature

For conventional convertible debt where the rate of conversion is below market value, the Company records a “beneficial conversion feature” (“BCF”) and related debt discount.

When the Company records a BCF, the relative fair value of the BCF is recorded as a debt discount against the face amount of the respective debt instrument. The discount is amortized to interest expense over the life of the debt.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Significant Customers**

In the years ended December 31, 2012 and 2011, the Company has relied on two customers for a substantial portion of its sales making up 45% and 55% of total sales, respectively. MusclePharm's sales for the years ended December 31, 2012 and 2011 to Bodybuilding.com were 33% and 41%, respectively and to GNC 2012 and 2011 were 12% and 14%, respectively.

**Accounts payable and accrued liabilities**

Accounts payable and accrued liabilities consists of the Company's Trade Payables as well as amounts estimated by management for future liability payments that relate to the current accounting period. Management reviews these estimates periodically to determine their reasonableness and fair presentation.

**Debt**

The Company defines short term debt as any debt payment due less than one year from the date of the financial statements. Long term debt is defined as any debt payment due more than one year from the date of the financial statements. Refer to Note 4 for further disclosure debt liabilities.

**Derivative Liabilities**

Fair value accounting requires bifurcation of embedded derivative instruments such as conversion features in convertible debt or equity instruments, and measurement of their fair value. In determining the appropriate fair value, the Company uses the Black-Scholes option-pricing model. In assessing the convertible debt instruments, management determines if the convertible debt host instrument is conventional convertible debt and further if there is a beneficial conversion feature requiring measurement. If the instrument is not considered conventional convertible

debt, the Company continues its evaluation process of these instruments as derivative financial instruments.

Once derivative liabilities are determined, they are adjusted to reflect fair value at the end of each reporting period. Any increase or decrease in the fair value is recorded in results of operations as an adjustment to fair value of derivatives. In addition, the fair value of freestanding derivative instruments such as warrants, are also valued using the Black-Scholes option-pricing model. Once a derivative liability ceases to exist any remaining fair value is reclassified to additional paid in capital.

### **Deferred Equity Costs**

The Company may pay costs related to the underwriting and offering of equity securities. These costs are treated as a reduction to equity capital raised and recorded in equity when the share issuances are recorded. Until the shares are recorded or until offering is aborted, these costs will be held on the balance sheet as a deferred asset.

### **Debt Issue Costs and Debt Discount**

The Company may pay debt issue costs, and record debt discounts in connection with raising funds through the issuance of convertible debt. These costs are amortized over the life of the debt to interest expense. If a conversion of the underlying debt occurs, a proportionate share of the unamortized amounts is immediately expensed.

### **Original Issue Discount**

For certain convertible debt issued, the Company provides the debt holder with an original issue discount. The original issue discount is recorded to debt discount and additional paid-in capital at an amount not to exceed gross proceeds raised, reducing the face amount of the debt, and is amortized to interest expense over the life of the debt.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Share-Based Payments**

Generally, all forms of share-based payments, including stock option grants, warrants and restricted stock grants and stock appreciation rights are measured at their fair value on the awards' grant date, based on estimated number of awards that are ultimately expected to vest. Share-based compensation awards issued to non-employees for services rendered are recorded at either the fair value of the services rendered or the fair value of the share-based payment, whichever is more readily determinable.

**Earnings (Loss) Per Share**

Net earnings (loss) per share is computed by dividing net income (loss) less preferred dividends for the period by the weighted average number of common stock outstanding during each period. Diluted earnings (loss) per share is computed by dividing net income (loss) less preferred dividends for the period by the weighted average number of common stock, common stock equivalents and potentially dilutive securities outstanding during each period.

Since the Company reflected a net loss for the years ended December 31, 2012 and 2011, respectively, the effect of considering any common stock equivalents, if exercisable, would have been anti-dilutive. A separate computation of diluted earnings (loss) per share is not presented.

The Company has the following common stock equivalents as of December 31, 2012 and 2011, respectively:

	As of December 31,	
	2012	2011
Stock options (exercise price – \$425/share)	1,847	1,903
Warrants (exercise price – \$12.75 - \$1,275/share)	89	72,584
Convertible Series C Preferred Stock (conversion price \$8.50/share)	-	23
Convertible debt (conversion price – \$1.70- \$17/share)	-	527,757



Total common stock equivalents	1,936	602,267
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In the above table, some of the outstanding instruments from 2011 contain ratchet provisions that would cause variability in the exercise price at the balance sheet date. As a result, common stock equivalents could change.

### **Foreign Currency**

MusclePharm began operations in Canada in April 2012. The Canadian Dollar was determined to be the functional currency as the majority of the transactions related to the day to day operations of the business are exchanged in Canadian Dollars. At the end of the period, the financial results of the Canadian operation are translated into the U.S. Dollar, which is the reporting currency, and added to the U.S. operations for consolidated company financial results. The revenue and expense items are translated using the average rate for the period and the assets and liabilities at the end of period rate. Transactions that have completed the accounting cycle and resulted in a gain or loss related to translation are recorded in realized gain or loss due to foreign currency translation under other income expense on the income statement. Transactions that have not completed their accounting cycle but appear to have gain or loss due to the translation process are recorded as unrealized gain or loss due to translation and held in the equity section on the balance sheet until such date the accounting cycle of the transaction is complete and the actual realized gain or loss is recognized.

### **Reclassification**

The Company has reclassified certain prior period amounts in the net cash used in operating activities section of the statement of cash flows to conform to the current period presentation. These reclassifications were for presentation purposes had no effect net cash used in operating activities for the periods presented.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)****Recent Accounting Pronouncements**

In May 2011, the Financial Accounting Standards Board issued Accounting Standards Update (“ASU”) No. 2011-04 “Amendments to Achieve Common Fair Value Measurement and Disclosure Requirements in GAAP and IFRS”. ASU 2011-04 includes common requirements for measurement of and disclosure about fair value between GAAP and the International Financial Reporting Standards (“IFRS”). ASU 2011-04 requires reporting entities to disclose additional information for fair value measurements categorized within Level 3 of the fair value hierarchy. In addition, ASU 2011-04 requires reporting entities to make disclosures about amounts and reasons for all transfers in and out of Level 1 and Level 2 fair value measurements. The new and revised disclosures are effective for interim and annual reporting periods beginning after December 15, 2011. This pronouncement has been implemented in the Company’s financial statements for the year ended December 31, 2012 without impact.

**Note 3: Property and Equipment**

Property and equipment consisted of the following at December 31, 2012 and 2011:

	2012	2011	Estimated Useful Life
Furniture, fixtures and gym equipment	\$1,323,998	\$781,786	3 years
Leasehold improvements	563,204	244,770	From 42 to 64 months
Vehicles	100,584	37,068	5 years
Displays	32,057	32,057	5 years
Website	11,462	11,462	3 years
Total	2,031,305	1,107,143	
Less: Accumulated depreciation and amortization	(674,941 )	(199,621 )	
	\$1,356,364	\$907,522	

**Note 4: Debt**

At December 31, 2012 and 2011, debt consists of the following:

	2012	2011
Convertible debt - secured	\$-	\$1,749,764
Less: debt discount	-	(1,395,707)
Convertible debt - net	-	354,057
Auto loan - secured	15,380	26,236
Unsecured debt	4,452,183	2,380,315
Less: debt discount	-	(1,171,626)
Unsecured debt - net	4,452,183	1,208,689
Total debt	4,467,563	1,588,982
Less: current portion	(4,463,040)	(1,281,742)
Long term debt	\$4,523	\$307,240

Debt in default of \$64,600 and \$505,600 at December 31, 2012 and 2011, respectively, is included as a component of short-term debt.

Future annual principal payments for the above debt is as follows:

Years Ending December 31,	
2013	\$4,463,040
2014	4,523
Total annual principal payments	\$4,467,563

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)****Convertible Debt – Secured – Derivative Liabilities**

During years ended December 31, 2012 and 2011, the Company issued convertible debt totaling \$519,950 and \$4,679,253, respectively. The convertible debt includes the following terms:

		Year Ended December 31, 2012	2011
		Amount of Principal Raised	Amount of Principal Raised
Interest Rate		8% - 10%	0% - 18%
Default interest rate		0% - 20%	0% - 25%
Maturity		January 3, 2012 to October 11, 2014	June 30, 2011 to June 29, 2015
Conversion terms 1	Lesser of (i) a fifty percent (50%) discount to the two lowest closing bid prices of the five days trading days immediately preceding the date of conversion or (ii) twenty one dollars and twenty five cents (\$21.25) per share	\$-	\$525,000
Conversion terms 2	200% - The “market price” will be equal to the average of (i) the average of the closing price of Company’s common stock during the 10 trading days immediately preceding the date hereof and (ii) the average of the 10 trading days immediately subsequent to the date hereof.	-	537,600
Conversion terms 3	200% of face. Average of the trading price 10 trading days immediately preceding the closing of the transaction	-	177,000
Conversion terms 4	200% of face. Fixed conversion price of \$17.00	-	105,000
Conversion terms 5	300% of face. Fixed conversion price of \$17.00	-	15,000
Conversion terms 6	35% of the three lowest trading prices for previous 10 trading days		250,000
Conversion terms 7	45% of the three lowest trading prices for previous 10 trading days	-	327,500
Conversion terms 8		-	76,353

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	50% of average closing prices for 10 preceding trading days		
Conversion terms 9	50% of lowest trade price for the last 20 trading days	-	45,000
Conversion terms 10	50% of the 3 lowest trades for previous 20 trading days	-	33,000
Conversion terms 11	50% of the lowest closing price for previous 5 trading days	-	250,000
Conversion terms 12	60% multiplied by the average of the lowest 3 trading prices for common stock during the ten trading days prior to the conversion date	-	233,000
Conversion terms 13	62% of lowest trade price for the last 7 trading days	100,000	40,000
Conversion terms 14	65% of the lowest trade price in the 30 trading days previous to the conversion	19,950	335,000
Conversion terms 15	65% of the three lowest trading price for previous 30 trading days	-	153,800
Conversion terms 16	70% of lowest average trading price for 30 trading days	-	1,366,000
Conversion terms 17	No fixed conversion option	-	35,000
Conversion terms 18	35% multiplied by the average of the lowest three (3) trading prices (as defined below) for the common stock during the ten (10) trading day period ending on the latest complete trading day prior to the conversion date.	400,000	75,000
Conversion terms 19	Fixed conversion price of \$25.50	-	100,000
		\$519,950	\$4,679,253

The debt holders are entitled, at their option, to convert all or part of the principal and accrued interest into shares of the Company's common stock at the conversion prices and terms discussed above. The Company classifies embedded conversion features in these notes as a derivative liability due to management's assessment that the Company may not have sufficient authorized number of shares of common stock required to net-share settle or due to the existence of a ratchet due to an anti-dilution provision. See Note 5 regarding accounting for derivative liabilities.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

During the year ended December 31, 2012, the Company converted debt and accrued interest, totaling \$1,420,422 into 290,961 shares of common stock. The resulting loss on conversion of \$351,021 is included in the \$4,447,732 loss on settlement of accounts payable and debt as shown in the consolidated statement of operations. During the year ended December 31, 2011, the Company converted debt and accrued interest, totaling \$5,126,809 into 346,282 shares of common stock resulting in a loss on conversion of \$1,739,329

During the year ended December 31, 2012, \$14,000 of convertible notes matured without conversion. These notes became demand loans and were reclassified as unsecured debt. Derivative liabilities associated with these notes were eliminated given the expiration of the embedded conversion option. During the year ended December 31, 2011, \$585,000 of convertible notes matured without conversion. These notes became demand loans and were reclassified as unsecured debt. Derivative liabilities associated with these notes were eliminated given the expiration of the embedded conversion option.

**(A) Convertible Debt**

Convertible debt consisted of the following activity and terms:

		Interest Rate	Maturity
Balance - December 31, 2010	\$605,000		
Borrowings during the year ended December 31, 2011	4,652,900	0% - 18	% January 30, 2011 to June 29, 2015
Reclassifications from convertible notes to unsecured demand notes	(585,000 )		
Conversion of debt to into 298,897 shares of common stock with a valuation of \$4,268,857 (\$2.72 - \$85.85/share)	(2,923,136)		
Balance - December 31, 2011	1,749,764		
Borrowings during the year ended December 31, 2012	519,950	8% - 10	% January 3, 2012 to October 11, 2014
Conversion of debt into 246,744 shares of common stock with a valuation of \$950,739 (\$2.98 - \$8.08/share)	(759,095 )		
Repayment of convertible debt	(2,518,343)		
Interest and accrued interest (Included in total repayment)	15,632		

Loss on repayment (Included in total repayment)	1,006,092
Expiration of conversion option	(14,000 )
Balance – December 31, 2012	\$-

**(B) Secured Debt**

Secured debt consisted of the following activity and terms:

		Interest Rate	Maturity
Secured Debt balance as of December 31, 2010	\$ 187,500	0	May 18, 2010 - May 26, 2010
Conversion of debt to into 8,824 shares of common stock with a valuation of \$437,500 (\$49.30 - \$50.15/share)	(187,500)		
Balance as of December 31, 2011	-		
Borrowings during the year ended December 31, 2012	-		
Secured Debt balance as of December 31, 2012	\$-		

**(C) Unsecured Debt**

Unsecured debt consisted of the following activity and terms:

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

		Interest Rate	Maturity
Unsecured Debt balance as of December 31, 2010	\$78,249		
Borrowings during the year ended December 31, 2011	1,960,000	8% - 15 %	February 8, 2011 - June 21, 2014
Reclassifications from convertible notes to unsecured demand notes	585,000		
Conversion of debt to into 38,562 shares of common stock with a valuation of \$420,452 (\$8.50 - \$42.50/share)	(167,649 )		
Repayments	(75,285 )		
Balance – December 31, 2011	2,380,315		
Borrowings during the year ended December 31, 2012	5,304,000	15% - 110 %	January 13, 2012 – October 1, 2013
Conversion of debt into 44,208 shares of common stock with a valuation of \$469,683 (\$8.08 - \$13.60/share)	(150,000 )		
Repayments	(3,318,374)		
Convertible debt added upon expiration of option	14,000		
Balance adjustments	117		
Interest and accrued interest (Included in total repayment)	31,896		
Loss on repayment (Included in total repayment)	190,229		
Balance – December 31, 2012	\$4,452,183		

**(D) Vehicle Loan**

Vehicle loan account consisted of the following activity and terms:

		Interest Rate	Maturity
Balance - December 31, 2010	\$-		
Non-Cash fixed asset additions during the year ended December 31, 2011	32,568	6.99 %	36 payments of \$1,008
Repayments	(6,332 )		
Balance - December 31, 2011	26,236	6.99 %	24 payments of \$1,008



Repayments	(10,856)
Balance – December 31, 2012	\$ 15,380

**(E) Debt Issue Costs**

During the years ended December 31, 2012 and 2011, the Company paid debt issue costs totaling \$662,209 and \$263,283, respectively.

For the year ended December 31, 2012, the Company issued 22,633 warrants as cost associated with a debt raise. The initial derivative liability value of \$427,759 was recorded as debt issue costs and derivative liability.

The following is a summary of the Company's debt issue costs for the years ended December 31, 2012 and 2011:

	2012	2011
Debt issuance costs	\$851,923	\$305,283
Accumulated amortization of debt issuance costs	(516,490)	(237,095)
Debt issuance costs – net	\$335,433	\$68,188

During the years ended December 31, 2012 and 2011, the Company amortized \$394,964 and \$229,499, respectively in debt issuance costs.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**(F) Debt Discount**

During the years ended December 31, 2012 and 2011, the Company recorded debt discounts totaling \$3,554,673 and \$5,473,291, respectively.

The debt discounts recorded in 2012 and 2011 pertain to convertible debt and warrants that contain embedded conversion options that are required to be bifurcated and reported at fair value.

The Company amortized \$6,122,006 and \$3,237,219 to interest expense in the years ended December 31, 2012 and 2011 as follows:

Debt discount – December 31, 2010	\$5,804,552
Amortization of debt discount – year ended December 31, 2011	(3,237,219)
Debt discount – December 31, 2011	2,567,333
Additional debt discount – year ended December 31, 2012	3,554,673
Amortization of debt discount – year ended December 31, 2012	(6,122,006)
Debt discount – December 31, 2012	\$-

**Note 5: Derivative Liabilities**

The Company identified conversion features embedded within convertible debt, warrants and Series C Preferred Stock issued in 2012, 2011 and (see Notes 4 and 8). The Company has determined that the features associated with the embedded conversion option should be accounted for at fair value as a derivative liability as the Company could not determine if a sufficient number of shares would be available to settle all transactions.

The fair value of the conversion feature is summarized as follows:

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Derivative liability - December 31, 2010	\$622,944
Fair value at the commitment date for convertible instruments	6,590,351
Fair value at the commitment date for warrants issued	5,650,576
Fair value at the commitment date for Series A, Preferred Stock issued	293
Fair value mark to market adjustment for convertible instruments	(2,293,164)
Fair value mark to market adjustment for warrants	(2,868,818)
Fair value mark to market adjustment for Series A, Preferred Stock issued	(118 )
Reclassification to additional paid in capital for financial instruments that ceased to be a derivative liability	(640,826 )
Derivative liability - December 31, 2011	7,061,238
Fair value at the commitment date for debt instruments	1,096,808
Fair value at the commitment date for warrants issued	7,526,671
Fair value mark to market adjustment for debt instruments	(1,579,663)
Fair value mark to market adjustment for warrants	(4,345,916)
Fair value mark to market adjustment for Series C Preferred Stock issued	(59 )
Reclassification to additional paid-in capital for financial instruments conversions and maturities	(4,124,387)
Warrant settlements	(5,634,692)
Derivative liability – December 31, 2012	\$-

The Company recorded the debt discount to the extent of the gross proceeds raised, and expensed immediately the remaining value of the derivative as it exceeded the gross proceeds of the note. The Company recorded a derivative expense of \$4,409,214 and \$4,777,654 for the years ended December 31, 2012 and 2011, respectively.

The fair value at the commitment and re-measurement dates for the Company's derivative liabilities were based upon the following management assumptions as of December 31, 2012:

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

	Commitment Date	Re-measurement Date
Expected dividends	0	% N/A
Expected volatility	228% -251	% N/A
Expected term:	6 months – 4 years	N/A
Risk free interest rate	0.09% - 0.72	% N/A

The fair value at the commitment and re-measurement dates for the Company's derivative liabilities were based upon the following management assumptions as of December 31, 2011:

	Commitment Date	Re-measurement Date
Expected dividends	0	% 0
Expected volatility	150% -226	% 150% -226
Expected term:	0.02 – 5 years	0.02 – 5 years
Risk free interest rate	0.06% - 2.76	% 0.09% - 0.31

**Note 6: Restricted Stock Units**

In November 2012, the Company granted the COO, John H. Bluher, 70,589 restricted stock units through a restricted stock unit agreement. Each restricted stock unit represents a contingent right to receive one share of the Company's common stock upon vesting. The value of this award at the grant date was \$245,400 and will be amortized over the vesting periods such that each tranche of restricted stock units will be fully amortized at the date of vesting. The restricted stock units will vest in tranche of 23,529 on January 1, 2013 and two tranches of 23,530 shares on January 1, 2014 and December 1, 2014. As of December 31, 2012, no restricted stock units have vested and the unamortized portion of this award is \$163,600.

In November 2012, the Company granted the CFO, L. Gary Davis, 58,824 restricted stock units through a restricted stock unit agreement. Each restricted stock unit represents a contingent right to receive one share of the Company's common stock upon vesting. The value of this award at the grant date was \$204,500 and will be amortized over the vesting periods such that each tranche of restricted stock units will be fully amortized at the date of vesting. The restricted stock units will vest in three tranches of 19,608 shares on January 1, 2013 and 2014, and December 1, 2014. As of December 31, 2012, no restricted stock units have vested and the unamortized portion of this award \$136,333.

**Note 7: Income Taxes**

Income taxes are provided for the tax effects of transactions reported in the financial statements and consist of taxes currently due. Deferred taxes relate to differences between the basis of assets and liabilities for financial and income tax reporting which will be either taxable or deductible when the assets or liabilities are recovered or settled.

At December 31, 2012, the Company has a net operating loss carry-forward of approximately \$23,940,000 available to offset future taxable income expiring through 2032. Utilization of future net operating losses may be limited due to potential ownership changes under Section 382 of the Internal Revenue Code of 1986, as amended (the "Code").

The valuation allowance at December 31, 2011 was approximately \$8,570,000. The net change in valuation allowance during the year ended December 31, 2012 was an increase of approximately \$5,087,000. In assessing the realizability of deferred tax assets, management considers whether it is more likely than not that some portion or all of the deferred income tax assets will not be realized. The ultimate realization of deferred income tax assets is dependent upon the generation of future taxable income during the periods in which those temporary differences become deductible. Management considers the scheduled reversal of deferred income tax liabilities, projected future taxable income, and tax planning strategies in making this assessment. Based on consideration of these items, management has determined that enough uncertainty exists relative to the realization of the deferred income tax asset balances to warrant the application of a full valuation allowance as of December 31, 2012.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

The effects of temporary differences that gave rise to significant portions of deferred tax assets at December 31, 2012 and 2011, are approximately as follows:

	December 31, 2012	December 31, 2011
Net operating loss carry forward	\$ 8,871,000	\$ 6,061,000
Amortization of debt discount and debt issue costs	3,732,000	1,465,000
Stock options and warrants	971,000	971,000
Depreciation	74,000	-
Bad debt	9,000	73,000
Valuation allowance	(13,657,000 )	(8,570,000 )
Net deferred tax asset	\$ -	\$ -

There was no income tax expense for the years ended December 31, 2012 and 2011, due to the Company's net losses.

The Company's tax expense differs from the "expected" tax expense for the years ended December 31, 2012 and 2011, (computed by applying the federal corporate tax rate of 34% to loss before taxes and 4.63% for Colorado State Corporate Taxes, the blended rate used was 37.1%), are approximately as follows:

	December 31, 2012	December 31, 2011
Federal tax benefit at statutory rate	\$ (6,493,000 )	\$ (7,916,000 )
State tax benefit – net of federal tax effect	(418,000 )	(501,000 )
Derivative expense	1,499,000	1,625,000
Change in fair value of derivative liability	(2,006,000 )	(1,755,000 )
Loss on settlement of accounts payable	1,495,000	1,313,000
Non-deductible stock compensation	791,000	1,091,000
Other non-deductible expenses	46,000	68,000
Change in valuation allowance	5,086,000	6,075,000
Income tax benefit	\$ -	\$ -

**Note 8: Stockholders' deficit**

The Company has four separate series of authorized preferred stock:

On November 26, 2012, the Company (i) effected a 1-for-850 reverse stock split of our common stock, including a proportionate reduction in the number of authorized shares of our common stock from 2.36 billion shares to 2.8 million shares of common stock, and (ii) amended our articles of incorporation to increase the number of authorized shares of common stock (post reverse stock split) from 2,941,177 to 100 million effective November 27, 2012. All share and per share amounts in this document have been changed to give effect to the reverse stock split

**(A) Series A Convertible Preferred Stock**

The shares of Series A have the following provisions:

Non-voting,  
No rights to dividends,  
No liquidation value,  
Convertible into 200 shares of common stock.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**(B) Series B Preferred Stock (Related Parties)**

In August 2011, the Company issued an aggregate 51 shares of Series B Preferred Stock to two of its officers and directors. The Company accounted for the share issuance at par value as there was no future economic value that could be associated with the issuance.

The shares of Series B have the following provisions:

- Voting rights entitling the holders to an aggregate 51% voting control;
- Initially no rights to dividends;
- Stated value of \$0.001 per share;
- Liquidation rights entitle the receipt of net assets on a pro-rata basis; and
- Non-convertible.

**(C) Series C Convertible Preferred Stock**

In October 2011, the Company issued 190 shares of Series C Convertible Preferred Stock, having a fair value of \$190,000. Of the total shares issued, 100 shares were issued for \$100,000 (\$1,000 /share). The remaining 90 shares were issued for services rendered having a fair value of \$90,000 (\$1,000 /share), based upon the stated value per share. In March 2012, all 190 shares were converted into 22,353 common shares at a conversion price of \$0.0085 per share and a loss of \$614,984.

The shares of Series C have the following provisions:

- Stated Value - \$1,000 per share;
- Non-voting;
- Liquidation rights entitle an amount equal to the stated value, plus any accrued and unpaid dividends;
- As long as any Series C, convertible preferred stock is outstanding, the Company is prohibited from executing various corporate actions without the majority consent of the holders of Series C Convertible Preferred Stock



authorization; and

Convertible at the higher of (a) \$8.50 or (b) such price that is a 50% discount to market using the average of the low 2 closing bid prices, 5 days preceding conversion.

Due to the existence of an option to convert at a variable amount, the Company treated this series of preferred stock as a derivative liability due to the potential for settlement in a variable quantity of shares. Additionally, the Company computed the fair value of the derivative liability at the commitment date and remeasurement date, which was \$293 and \$175, respectively, using the Black-Scholes valuation model. This transaction is analogous to a dividend with a direct charge to retained earnings.

#### **(D) Series D Convertible Preferred Stock**

In January 2013 the Board of Directors authorized 1,600,000 shares of Series D convertible preferred stock.

The shares of Series D have the following provisions:

- Voting rights based on number of common shares of conversion option;
- Initially no rights to dividends;
- Liquidation rights entitle the receipt of net assets on a pro-rata basis; and
- Convertible into 2 shares of common stock, subject to adjustment.

Subsequent to year end, the Company issued 1,500,000 shares of Series D preferred stock. Refer to Note 12 for details on this transaction.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)****(E) Common Stock**

During the year ended December 31, 2012, the Company issued the following common stock:

Transaction Type	Quantity	Valuation (\$)	Loss on Settlement (\$)	Range of Value per Share (\$)
Conversion of convertible debt	246,753	950,739	61,124	2.98 - 8.08
Conversion of unsecured/secured debt	44,208	469,683	289,897	8.08 - 13.60
Forbearance of agreement terms	95,528	1,240,032	-	7.14 - 27.54
Cash and warrants	199,422	1,660,760	-	7.59 - 8.50
Executive compensation <sup>(1)</sup>	431,034	4,686,514	-	8.93 - 17.71
Stock issued for future services	113,740	1,107,719	-	4.75 - 21.25
Conversion of Series C Preferred Stock to common stock	22,353	614,984	614,984	27.51
Warrant Conversions/Settlements	853,082	7,295,768	1,505,906	5.44 - 15.73
Stock issued in lieu of interest	58,945	334,099	-	5.50 - 10.62
Additional shares due to roundup provision of certificates upon reverse split	561	-	-	-
Total	2,065,626	18,360,298	2,471,911	0.00 - 27.54

<sup>(1)</sup> Represents common stock issued for prior year 2011 accrued compensation of \$4,667,764 settled in 2012 and directors awards.

During the year ended December 31, 2011, the Company issued the following common stock:

Transaction Type	Quantity	Valuation (\$)	Range of Value per Share (\$)
Conversion of convertible debt	298,897	4,268,857	2.55-85.00
Conversion of unsecured/secured debt	47,386	857,952	42.50-51.00
Settlement of accounts payable and accrued expenses <sup>(4)</sup>	64,172	3,646,719	25.50-102.00

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Extension of debt maturity date	11,030	161,250	14.45-17.00
Services – rendered	54,731	1,199,844	0.00-977.50
Cash and warrants	96,471	875,000	25.50
Services – prepaid stock compensation <sup>(2)</sup>	4,706	214,250	42.50-68.00
Cancelled shares <sup>(3)</sup>	(4,118 )	-	25.50
Total	573,275	11,223,872	0.00-977.50

The fair value of all stock issuances above is based upon the quoted closing trading price on the date of issuance, except for stock and warrants issued for cash, which is based on the cash received.

**(1) Settlement of Warrants to Purchase Common Stock**

In September 2012, the Company began the settlement of all outstanding valued warrant contracts in an effort to reduce financial statement fluctuations due to these instruments. The Company issued 512,631 shares of common stock to several accredited investors pursuant to conversions of warrants to purchase an aggregate of 723,746 shares of common stock in September and issued 3,677 shares of common stock pursuant to conversions of a warrant to purchase 4,902 shares of common stock in December 2012. Related to these efforts, the Company did not have any valued warrant contracts outstanding at December 31, 2012.

**(2) Prepaid Stock Compensation**

The following represents the allocation of prepaid stock compensation as of December 31, 2012 and 2011:

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

Prepaid stock compensation – December 31, 2010	1,965,911
Prepaid stock compensation additions during the year ended December 31, 2011	214,250
Non cash increase in accounts payable related to future services to be paid for with common stock	100,000
Amortization of prepaid stock compensation	(1,745,705)
Prepaid stock compensation – December 31, 2011	534,456
Prepaid stock compensation additions during the year ended December 31, 2012	110,000
Amortization of prepaid stock compensation	(599,708 )
Prepaid stock compensation – December 31, 2012	\$44,748

The following represents the allocation of prepaid stock compensation at December 31, 2012:

Prepaid expense that will be amortized in 2013    \$44,748

**(3) Cancelled Shares**

The Company cancelled 4,118 shares during the year ended December 31, 2011, valued at par (\$0.001). The Company has disputed the issuance of these shares due to non-performance by a consultant. These shares were originally issued in 2010 as a component of stock issued for services rendered.

**(4) Settlement of Accounts Payable and Accrued Expenses and Loss on Settlement**

The Company settled \$1,523,590 in accounts payable and recorded a loss on settlement of \$2,123,129.

Loss on settlement of accounts payable and accrued expenses	\$2,123,129
Loss on settlement of debt (Note 4)	1,739,329
Total loss on settlement	\$3,862,458

**(F) Stock Options**

On February 1, 2010, the Company's board of directors and shareholders approved the 2010 Stock Incentive Plan ("2010 Plan"). The 2010 Plan allows the Company to grant incentive stock options, non-qualified stock options, restricted stock awards, restricted stock units and stock appreciation rights to key employees, directors consultants, advisors and service providers of the Company or its subsidiaries. Any stock option granted in the form of an incentive stock option will be intended to comply with the

requirements of Section 422 of the Code. Only stock options granted to employees qualify for incentive stock option treatment. No incentive stock option shall be granted after February 1, 2020, which is 10 years from the date the 2010 Plan was initially adopted. A stock option may be exercised in whole or in installments, which may be cumulative. Shares of common stock purchased upon the exercise of a stock option must be paid for in full at the time of the exercise in cash or such other consideration determined by the compensation committee. Payment may include tendering shares of common stock or surrendering of a stock award, or a combination of methods.

The 2010 Plan is administered by the Compensation Committee. The Compensation Committee has full and exclusive power within the limitations set forth in the 2010 Plan to make all decisions and determinations regarding the selection of participants and the granting of awards; establishing the terms and conditions relating to each award; adopting rules, regulations and guidelines; and interpreting the 2010 Plan. The Compensation Committee will determine the appropriate mix of stock options and stock awards to be granted to best achieve the objectives of the 2010 Plan. The 2010 Plan may be amended by the Board or the compensation committee, without the approval of stockholders, but no such amendments may increase the number of shares issuable under the 2010 Plan or adversely affect any outstanding awards without the consent of the holders thereof. The total number of shares that may be issued shall not exceed 5,883, subject to adjustment in the event of certain recapitalizations, reorganizations and similar transactions.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

On April 2, 2010, the Company issued 3,255 stock options, having a fair value of \$630,990, which was expensed immediately since all stock options vested immediately. These stock options expire on April 2, 2015.

The Company applied fair value accounting for all share based payments awards. The fair value of each option granted is estimated on the date of grant using the Black-Scholes option-pricing model. The Black-Scholes assumptions used when the options were issued in the year ended December 31, 2010 are as follows:

Exercise price	\$425	
Expected dividends	0	%
Expected volatility	74.8	%
Risk free interest rate	1.4	%
Expected life of option	5	years
Expected forfeiture	0	%

The following is a summary of the Company's stock option activity:

	Options	Weighted Average Exercise Price	Weighted Average Remaining Contractual Life	Aggregate Intrinsic Value
Balance – December 31, 2010	3,255	\$ 425.00	4.25 years	
Granted	-	-		
Exercised	-	-		
Forfeited/Cancelled	(1,353 )	\$ 425.00		
Balance – December 31, 2011	1,902	\$ 425.00	3.25 years	-
Granted	-			
Exercised	-			
Forfeited/Cancelled	(55 )	\$ 425.00		
Balance – December 31, 2012 – outstanding	1,847	\$ 425.00	2.5 years	-
Balance – December 31, 2012 – exercisable	1,847	\$ 425.00	2.5 years	-
Outstanding options held by related parties – 2012	1,847			
Exercisable options held by related parties – 2012	1,847			
Outstanding options held by related parties – 2011	1,177			

Exercisable options held by related parties – 2011 1,177

**(F) Stock Warrants**

All warrants issued during years ended December 31, 2012 and 2011 were accounted for as derivative liabilities. See Note 5.

During the year ended December 31, 2012, the Company entered into convertible note and unsecured note agreements. As part of these agreements, the Company issued warrants to purchase 500,721 shares of common stock. Each warrant vests six months after issuance and expire July 13, 2014 – October 16, 2014, with exercise prices ranging from \$10.20 - \$12.75. All warrants contain anti-dilution rights, and are treated as derivative liabilities. All warrants issued during the year ended December 31, 2012, were converted in 2012.

During 2011, the Company entered into convertible and unsecured note agreements. As part of these agreements, the Company issued warrants to purchase 191,045 shares of common stock. Each warrant vests six month after issuance and expire July 14, 2013 – June 28, 2016, with exercise prices ranging from \$12.75 - \$51.00.

During 2011, the Company issued 141,412 warrants for services performed. The warrants have a vesting range of immediate to six months after issuance and expire February 28, 2014 – April 15, 2016, with exercise prices ranging from \$1.70 - \$85.00. The value of the warrants, \$1,989,982, calculated using the below black-scholes assumptions, was expensed as compensation with the offset being recorded to derivative liabilities, since the Company applied the provisions of ASC No. 815, pertaining to the potential settlement in a variable amount of shares.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

A summary of warrant activity for the Company for the years ended December 31, 2012 and 2011 is as follows:

	Number of Warrants	Weighted Average Exercise Price
Balance at December 31, 2010	883	1,275
Granted	332,457	17.00
Exercised	-	-
Balance at December 31, 2011	333,340	20.33
Granted	500,721	10.20
Exercised	(37,648 )	7.57
Converted	(796,324 )	10.20
Balance at December 31, 2012	89	1,275.00

Warrants Outstanding			Warrants Exercisable			
Range of Exercise Prices	Number Outstanding	Weighted Average Remaining Contractual Life (in years)	Weighted Average Exercise Price	Number Exercisable	Weighted Average Exercise Price	Intrinsic Value
\$1,275	89	2.79	\$ 1,275	89	\$ 1,275	-

**(G) Treasury Stock**

During the year ended December 31, 2012, the Company repurchased 31,096 shares of its common stock for the total sum of \$460,978 or an average of \$14.82 per share. The Company recorded the value of its common stock held in treasury at cost. The Company has not cancelled or retired these shares, and they remain available for re-issuance. The Company has a stock repurchase plan in place, but has been suspended it indefinitely.

**Note 9: Commitments, Contingencies and Other Matters****(A) Operating Lease**



The Company has various non-cancelable leases with terms expiring through 2015.

Future minimum annual lease payments for the above leases are approximately as follows:

Years Ended December 31,	
2013	\$333,902
2014	436,688
2015	311,209
Total minimum lease payments	\$1,081,799

Rent expense for the years ended December 31, 2012 and 2011, was \$337,584 and \$154,155, respectively.

**(B) Factoring Agreement**

In April 2010, the Company entered into a factoring agreement and sold its accounts receivable. During 2010, the Company was subject legal proceedings with the factor, as a result of the Company's customers not remitting funds directly to the factor. At December 31, 2010, the Company no longer factored its accounts receivable.

## **MusclePharm Corporation and Subsidiary**

### **Notes to Consolidated Financial Statements**

#### **(December 31, 2012 and 2011)**

A settlement, of \$96,783, was reached. During 2010, the Company repaid \$25,000, leaving a balance of \$71,783 due to factor. In 2011, the Company paid \$10,000.

On February 28, 2011, the remaining \$65,930, inclusive of fees and interest, was settled with the issuance of 2,574 shares of common stock, having a fair value of \$131,206 (\$51.00/share), based upon the quoted closing trading price. The Company recorded a loss on settlement of accounts payable \$65,330.

#### **(C) Legal Matters**

From time to time, the Company is or may become involved in various legal proceedings that arise in the ordinary course of business or otherwise. Legal proceedings are subject to inherent uncertainties as to timing, outcomes, costs, expenses and time expenditures by the Company's management and others on behalf of the Company. Although there can be no assurance, based on information currently available the Company's management believes that the outcome of legal proceedings that are pending or threatened against the Company will not have a material effect on the Company's financial condition. However, the outcome of any of these matters is neither probable nor reasonably estimable.

The Company was party to the following legal matters as of December 31, 2011:

Plaintiff alleged the Company use of Creatine Nitrate in product infringed on a patent held by the Plaintiff. The Company settled this claim in 2012 for a nominal amount.

Plaintiff alleges the Company's use of the tagline "Train like an unchained beast" infringes on their mark "Beast" for dietary supplements. The Company settled this claim in 2012 for no consideration and agreed to modify its tagline. Plaintiff had filed notices of intent to commence litigation on over 200 sports nutrition and dietary supplement companies in the US and Canada, including the Company. Plaintiff alleged violations of California's Proposition 65. The Company considers this case without merit and merely an attempt by a commercial plaintiff to pressure settlements. The Company had recorded an accrual in the amount of \$121,500 as of December 31, 2011 and subsequently settled this claim for \$52,000 in 2012.

Beginning in October 2009, the Company engaged in various business dealings regarding the manufacturing, sale and distribution of products with Fit Foods Manufacturing, Ltd. and Fit Foods Distribution, Inc. Jointly, "Fit Foods").

MusclePharm and Fit Foods subsequently became involved in a business dispute regarding their respective obligations and filed claims against each other in District Court. The Parties settled their dispute on December 22, 2010. The Company issued 16,456 shares of common stock having a fair value of \$676,980 (\$41.14/share), based upon the quoted closing trading price which settled outstanding accounts payable of \$333,666, resulting in a loss on settlement of \$343,314. All settlement payments have been made and the case was dismissed on July 1, 2011.

As of December 31, 2012, the Company is a party defendant in the following legal proceeding, which the Company: (a) believes is without merit; and (b) intends to defend vigorously:

William Bossung and Bishop Equity Partners LLC v. MusclePharm Corporation, Clark County, Nevada District Court. Date instituted: January 17, 2012. Plaintiff alleges that additional monetary payments are due in respect of a settlement for outstanding warrants.

The Tawnsaura Group, LLC v MusclePharm Corporation, Case No: 8:12-cv-01476-JVS-RNB in the United States District Court for the Central District of California. Date instituted: September 12, 2012. Plaintiff alleges patent infringement for MusclePharm's use of Citrulline Malate in its products. To date, Plaintiff has filed against over 70 different manufacturers of dietary supplements and sports nutrition products. MusclePharm is part of a joint defense group and believes this case is without merit due to the existence of prior art.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

As of December 31, 2012, the Company is a party plaintiff in the following legal matter:

MusclePharm Corporation v. Swole Sports Nutrition, LLC, United States District Court for the Southern District of Florida. Date instituted: March 15, 2012. The Company filed this action for trademark infringement after the Defendant started marketing and selling a dietary supplement named “Turbo Shred”. The Company has sold “Shred Matrix” since April 2, 2008, and the mark “MusclePharm Shred Matrix” was granted registration by the USPTO on September 21, 2010.

**(D) Payroll Taxes**

As of December 31, 2012 and 2011, accounts payable and accrued expenses included approximately \$143,000 and \$168,000, respectively, pertaining to accrued payroll taxes. The taxes represent employee withholdings that have yet to be remitted to the taxing agencies.

**(E) Product Liability**

As a manufacturer of nutritional supplements and other consumer products that are ingested by consumers, the Company has been and is currently subject to various product liability claims. Although the effects of these claims to date have not been material, it is possible that current and future product liability claims could have a material adverse effect on our business or financial condition, results of operations or cash flows. The Company currently maintains product liability insurance with a deductible/retention of \$10,000 per claim with an aggregate cap on retained loss of \$5,000,000. At December 31, 2012, the Company had not recorded any accruals for product liabilities.

**(F) Sponsorship and Endorsement Contract Liabilities**

The Company has various non-cancelable endorsement and sponsorship agreements with terms expiring through 2013. The total value of outstanding payments as of December 31, 2012.

**(G) Other Liabilities**

Subsequent to December 31, 2012, the Company determined that it may have potential liabilities related to the filing of certain informational returns required by governmental authorities. Management has developed a plan to address these matters and does not currently expect a significant adverse impact on its financial position or results of operations.

**Note 10: Defined Contribution Plan**

The Company has a 401(k) defined contribution plan, in which all eligible employees may participate. The 401(k) plan is a contributory plan. Matching contributions are based upon the amount of the employees' contributions. Beginning January 1, 2012, the Company may make an additional discretionary 401(k) plan matching contribution to eligible employees. During years ended December 31, 2012 and 2011, the Company's matching contribution were \$42,800 and \$0, respectively.

**Note 11: Restricted Cash**

A restricted cash fund was established in compliance with the unsecured debt agreements. At December 31, 2012, the restricted cash fund had a balance of \$9,148. This fund is used to pay principal and interest for the unsecured debt agreements which had a principal balance of \$3,387,586 as of December 31, 2012. Ten percent of all cash receipts from operations are put into this fund under the terms of certain debt agreements.

**MusclePharm Corporation and Subsidiary**

**Notes to Consolidated Financial Statements**

**(December 31, 2012 and 2011)**

**Note 12: Subsequent Events**

*Share Issuances*

Series D Preferred Stock Offering

On January 16, 2013, the Company entered into a placement agency agreement (the “Placement Agency Agreement”) with GVC Capital LLC (the “Placement Agent”) pursuant to which the Placement Agent agreed to use its best efforts to arrange for the sale of up to an aggregate of 1,500,000 shares of Series D Convertible Preferred Stock (the “Preferred Shares”) in a registered direct offering (the “Offering”).

The Preferred Shares offered pursuant to the Offering were registered under a registration statement on Form S-1 (Registration No. 333-184625), which the Securities and Exchange Commission declared effective on January 16, 2013.

Between January 16, 2013 and February 4, 2013, the Company entered into separate subscription agreements with certain investors in connection with the Offering, pursuant to which the Company sold an aggregate of 1,500,000 shares of Preferred Stock for aggregate gross proceeds of approximately \$12 million. Pursuant to the Certificate of Designation of the Series D Convertible Preferred Stock filed with the Nevada Secretary of State on January 11, 2013 (the “Certificate of Designation”), each share of Preferred Stock is convertible into two shares of common stock, subject to adjustment.

As of the date of this report, 1,176,125 Series D shares have been converted into 2,352,250 shares of the Company’s common stock and 323,875 shares of Series D preferred stock remain outstanding.

Common Stock Issuances

In March 2013 the Company issued 142,282 shares of common stock pursuant to the ratchet provisions in the July 2012 securities purchase agreement which are valued at \$853,692.

In March 2013 the Company issued an aggregate 741,017 shares of common stock pursuant consulting agreements valued at approximately \$6,297,694.

In March 2013 the Company issued an aggregate 43,137 shares of common stock pursuant the vesting of stock awards valued at \$294,167.

#### Private Placement of Common Stock

On March 26, 2013, the Company entered into subscription agreements with non-affiliated accredited investors for the issuance of 705,882 shares of common stock pursuant to exemptions from registration under federal and state securities laws. The shares of common stock were sold for \$8.50 per share. The gross proceeds to the Company of \$6.0 million were reduced by commissions and issuance costs of \$115,000.

**MusclePharm Corporation and Subsidiary****Notes to Consolidated Financial Statements****(December 31, 2012 and 2011)**

An unaudited pro-forma balance sheet showing the effect of these capital raises is shown below:

	December 31, 2012	Total Adjustment (unaudited)	Pro Forma (unaudited)
Assets			
Assets:			
Cash	\$-	\$6,296,669	\$6,296,669
Current assets	4,949,881	-	4,949,881
Non-current assets	1,816,846	-	1,816,846
Total assets	\$6,766,727	\$6,296,669	\$13,063,396
Liabilities and Stockholders' Deficit			
Liabilities:			
Current liabilities	\$16,520,456	\$(8,238,165)	\$8,282,291
Non-current liabilities	4,523	-	4,523
Total Liabilities	\$16,524,979	\$(8,238,165)	\$8,286,814
Stockholders' Deficit:			
Series A, Convertible Preferred Stock	-	-	-
Series B, Preferred Stock	-	-	-
Series C, Convertible Preferred Stock	-	-	-
Series D, Convertible Preferred Stock	-	324	324
Common Stock	2,778	2,972	5,750
Treasury Stock, at cost	(460,978)	-	(460,978)
Additional paid-in capital	54,817,341	16,698,755	71,516,096
Accumulated deficit	(64,109,476)	(2,167,217)	(66,276,693)
Accumulated other comprehensive income	(7,917)	-	(7,917)
Total Stockholders' Deficit	(9,758,252)	14,534,834	4,776,582
Total Liabilities and Stockholders' Deficit	\$6,766,727	\$6,296,669	\$13,063,396

At March 29, 2013 the Company's issued and diluted shares were as follows:

Shares issued and outstanding at December 31, 2012	2,747,308
Series D Preferred Stock converted to Common Stock through March 29, 2013	2,352,250
Net shares issued through March 29, 2013	1,667,089
Shares issued and outstanding at March 29, 2013	6,776,647



Series D Preferred Stock not yet converted	647,750
Shares awaiting authorization for issuance	307,506
Unvested executive stock awards	86,275
Fully Diluted as of March 29, 2013	7,818,178

**Repurchase of Shares of Common Stock Pursuant to Settlement Agreement**

On January 31, 2013, the Company entered into a settlement agreement with an investor regarding a dispute with registration of certain shares of common stock. Pursuant to the settlement agreement, the Company repurchased 18,824 shares of common stock in exchange for \$210,000.

## **Item 9. Changes in and Disagreements With Accountants on Accounting and Financial Disclosure**

### Changes in Registrant's Certifying Accountant

On September 14, 2012, following a competitive process undertaken by our audit committee in accordance with its charter, the audit committee approved the appointment of EKS&H LLLP, effective September 14, 2012, as our independent registered public accounting firm for the fiscal year ended December 31, 2012. On September 14, 2012, EKS&H LLLP accepted the engagement.

During our fiscal year ended December 31, 2011, and the subsequent interim period prior to the engagement of EKS&H LLLP, the Company did not consult EKS&H LLLP regarding (1) the application of accounting principles to a specific completed or contemplated transaction, (2) the type of audit opinion that might be rendered on our financial statements, or (3) any matter that was either the subject of a "disagreement" (as such term is described in Item 304(a)(1)(iv) of Regulation S-K) or a "reportable event" with Berman & Company, P.A. (as such term is described in Item 304(a)(1)(v) of Regulation S-K).

On September 18, 2012, our audit committee approved the dismissal of Berman & Company, P.A. as our independent registered public accounting firm.

Berman & Company, P.A.'s report on the financial statements for the fiscal years ended December 31, 2011 and 2010, contained no adverse opinion or disclaimer of opinion, and were not qualified or modified as to uncertainty, audit scope or accounting principle, except that the report contained a modification to the effect that there was substantial doubt as to the Company's ability to continue as a going concern. During the fiscal years ended December 31, 2011 and 2010, and through September 18, 2012, there were no "disagreements" (as such term is described in Item 304(a)(1)(iv) of Regulation S-K) with Berman & Company, P.A. on any matter of accounting principles or practices, financial statement disclosure or auditing scope or procedure, which disagreements, if not resolved to the satisfaction of Berman & Company, P.A., would have caused it to make reference thereto in their reports on the consolidated financial statements for such years.

During the fiscal years ended December 31, 2010 and 2011 and through September 18, 2012, there were no "reportable events" (as such term is defined in Item 304(a)(1)(v) of Regulation S-K).

## **Item 9A. Controls and Procedures**

**(a) Evaluation of Disclosure Controls and Procedures**

In accordance with Rule 13a-15(b) of the Exchange Act, our Chief Executive Officer, Chief Financial Officer and other members of management evaluated the effectiveness of the design and operation of our disclosure controls and procedures (as defined in Rule 13a-15(e) under the Exchange Act) as of December 31, 2012. Based upon their evaluation of these disclosure controls and procedures, the Chief Executive Officer and Chief Financial Officer concluded that some disclosure controls and procedures were ineffective as of December 31, 2012, in ensuring that information required to be disclosed by us in the reports that we file or submit under the Exchange Act is recorded, processed, summarized and reported within the time periods specified in the rules and forms of the SEC, and to ensure that information required to be disclosed by us in such reports is accumulated and communicated to our management, including our principal executive and principal financial officers to allow timely discussion regarding required disclosure.

**(b) Management's Report on Internal Control over Financial Reporting**

The management of MusclePharm Corporation and its subsidiary is responsible for establishing and maintaining adequate internal control over financial reporting, as such term is defined in Rule 13a-15(f) and 15d-15(f) under the Exchange Act. Our internal control over financial reporting is designed to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements of external purposes in accordance with generally accepted accounting principles. Because of the inherent limitations of internal control over financial reporting, misstatements may not be prevented or detected on a timely basis. Also, projections of any evaluation of effectiveness of the internal control over financial reporting to future periods are subject to the risk that the controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

Our management assessed the effectiveness of our internal control over financial reporting as of December 31, 2012 using criteria set forth in Internal Control – Integrated Framework issued by the Committee of Sponsoring Organizations of the Treadway Commission. Based on this assessment, our management determined that some of our disclosure controls and procedures were ineffective due to weaknesses in our financial closing process.

**(c) Changes in Internal Control over Financial Reporting**

There have been no changes in our internal controls over financial reporting (as such term is defined in Rule 13a-15(f) and 15d-15(f) under the Securities Exchange Act) during the year ended December 31, 2012, that have materially affected, or are reasonably likely to materially affect, our internal control over financial.

**Item 9B. Other Information**

Not applicable

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**PART III****Item 10. Directors, Executive Officers and Corporate Governance****Directors and Executive Officers of the Registrant**

The following table sets forth certain information as of March 29, 2013, regarding our directors and named executive officers:

<b>Name</b>	<b>Age</b>	<b>Position</b>
Brad J. Pyatt	32	Co-Chairman of the Board, Chief Executive Officer and President
L. Gary Davis	59	Chief Financial Officer
John H. Bluhner	55	Co-Chairman of the Board and Executive Vice President – Chief Operating Officer
Jeremy R. DeLuca	34	Executive Vice President – Chief Marketing Officer
Cory J. Gregory	34	Executive Vice President
Michael J. Doron	51	Director
James J. Greenwell	53	Director
Donald W. Prosser	63	Director

**Brad J. Pyatt** has served as our Chief Executive Officer and Director since February 18, 2010 and as our President since October 2012. Prior to our acquisition of Muscle Pharm, LLC, Mr. Pyatt was President and Chief Executive Officer of Muscle Pharm, LLC, since its inception in April 2008. His background includes seven years of experience as a professional athlete, and more than five years of experience in the sports nutrition arena. Mr. Pyatt played in National Football League for the Indianapolis Colts during the 2003, 2004, and 2005 NFL seasons as well for the Miami Dolphins during the 2006 NFL season. Mr. P