


Form PTO-1594 (Rev. 10/02) OMB No. 0651-0027 (exp. 6/30/2005) Tab settings ⇌ ⇌ ⇌	<b>RECORDATION FORM COVER SHEET</b> <b>TRADEMARKS ONLY</b>	U.S. DEPARTMENT OF COMMERCE U.S. Patent and Trademark Office
To the Honorable Commissioner of Patents and Trademarks: Please record the attached original documents or copy thereof.		
1. Name of conveying party(ies): <u>GOLDLINE LABORATORIES</u>  <input type="checkbox"/> Individual(s) <input type="checkbox"/> Association <input type="checkbox"/> General Partnership <input type="checkbox"/> Limited Partnership <input checked="" type="checkbox"/> Corporation-State Florida <input type="checkbox"/> Other _____  Additional name(s) of conveying party(ies) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	2. Name and address of receiving party(ies) Name: <u>Lee Pharmaceuticals, Inc.</u> Internal _____ Address: _____  Street Address: <u>1434 Santa Anita Ave.</u> City: <u>South El Monte</u> State: <u>CA</u> Zip: <u>91733</u>  <input type="checkbox"/> Individual(s) citizenship _____ <input type="checkbox"/> Association _____ <input type="checkbox"/> General Partnership _____ <input type="checkbox"/> Limited Partnership _____ <input checked="" type="checkbox"/> Corporation-State <u>California</u> <input type="checkbox"/> Other _____  <small>If assignee is not domiciled in the United States, a domestic representative designation is attached: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No          (Designations must be a separate document from assignment)          Additional name(s) &amp; address(es) attached? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</small>	
3. Nature of conveyance: <input type="checkbox"/> Assignment <input type="checkbox"/> Merger <input type="checkbox"/> Security Agreement <input type="checkbox"/> Change of Name <input checked="" type="checkbox"/> Other <u>Asset Purchase and Sale Agreement</u>  Execution Date: <u>05/28/1992</u>	4. Application number(s) or registration number(s): A. Trademark Application No.(s) _____ _____ B. Trademark Registration No.(s) <u>1368624</u> _____ Additional number(s) attached <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
5. Name and address of party to whom correspondence concerning document should be mailed: Name: <u>Molly D. McKay</u> Internal Address: <u>Molly D. McKay, P.C.</u> _____ _____ Street Address: <u>3207 E. 22nd Street</u> _____ City: <u>Tulsa</u> State: <u>OK</u> Zip: <u>74114-1823</u>	6. Total number of applications and registrations involved: <span style="border: 1px solid black; padding: 2px;">1</span>  7. Total fee (37 CFR 3.41).....\$ <u>40.00</u> <input type="checkbox"/> Enclosed <input checked="" type="checkbox"/> Authorized to be charged to deposit account only in event of underpayment  8. Deposit account number: <u>13-0470</u>	
<b>DO NOT USE THIS SPACE</b>		
9. Signature.  <div style="display: flex; justify-content: space-between; align-items: flex-end;"> <div style="width: 30%;"> <u>Molly D. McKay</u>            Name of Person Signing         </div> <div style="width: 30%; text-align: center;">             Signature         </div> <div style="width: 30%; text-align: right;"> <u>09/20/2004</u>            Date         </div> </div> <div style="text-align: center; margin-top: 5px;">         Total number of pages including cover sheet, attachments, and document: <span style="border: 1px solid black; padding: 2px;">17</span> </div>		

CH \$40.00 130470 1368624

 Mail documents to be recorded with required cover sheet information to:  
 Commissioner of Patent & Trademarks, Box Assignments  
 Washington, D.C. 20231

ASSET PURCHASE AND SALE AGREEMENT

THIS AGREEMENT is made as of this 28<sup>th</sup> day of May, 1992, by and among LEE PHARMACEUTICALS, INC., a corporation organized and existing under the laws of the State of California ("Buyer") and GOLDLINE LABORATORIES, INC., a corporation organized and existing under the laws of the State of Florida ("Seller").

1. Sale and Transfer of Assets. Seller agrees that it will sell, transfer, convey and deliver to Buyer at the closing provided for in Section 3 hereof (the "Closing") certain of the assets of Seller as more specifically defined in Section 2 hereof (the "Assets").

2. Assets of Seller. The Assets shall consist of the following:

(a) All rights, title and interest in the following products (the "Products"), and all "Intangibles" (as defined in Section 8(f) hereof), related to the Products. The Products are: (i) the preparations known as "Nose Better® Natural Mist® Nasal Spray" and "Nose Better® The Original Nose Gel Formula™", (ii) all current production specifications for raw material, active ingredients, excipients, packaging components, labeling, inserts, container closures and cartoning for such preparations; and (iii) all of Seller's records pertaining to prior sales and customer history and data, consumer letters, written communications between brokers and all product data from

suppliers or laboratories for such Products and copies of customer, supplier, third party sales representative and distributor list for the Products and other records of Seller relating specifically to the Products which Buyer determines, prior to Closing, it needs to carry on the business currently being conducted by Seller with respect to the Products. The term Products shall exclude inventory (finished and components).

(b) The Inventory (as defined in Section 8(h) hereof) for the Products.

3. Closing. The "Closing" of the transaction provided for in Section 1 shall take place simultaneously with the execution thereof.

4. Payment by Buyer.

(a) ~~As consideration for all the Assets, Buyer shall pay Seller for the Assets an amount equal to the value of all of Seller's Inventory as of the Closing relating to the Products valued, subject to Section 8(h) hereof, at the average cost of each item of such Inventory as agreed to Seller and Buyer (the "Purchase Price").~~ Buyer shall have the right to retain an independent firm to count the Inventory. ~~One Hundred Thousand Dollars (\$100,000) of the Purchase Price shall be paid at the Closing.~~ The Inventory shall be delivered F.O.B. Seller's warehouse located in Mason, Ohio. Buyer agrees to pay the balance of the Purchase Price on or before October 1, 1992. If the Purchase Price is less than One Hundred Thousand Dollars

(\$100,000) Seller shall refund to Buyer such excess of the One Hundred Thousand Dollars (\$100,000) over the Purchase Price by October 1, 1992. For Inventory which are of trial size, if Buyer sells any of such items, Buyer shall promptly remit to Seller, Seller's actual costs of producing such item (or if less, the net proceeds Buyer receives for such item). After November 30, 1993, Buyer shall attempt to liquidate any remaining trail size inventory and remit the net proceeds thereof to Seller.

(b) ~~For such Assets, Buyer shall also pay Seller, the greater of the minimum annual royalties or a royalty of twelve percent (12%) of the net sales price of the Products sold during the seven (7) year period beginning on the closing (the "Royalty"), all as provided for in the Royalty Agreement, Exhibit "A" hereto.~~

(c) Any payments required to be made hereunder to the Seller shall be made to the Seller at the address indicated in Section 15 hereof.

(d) The parties agree to allocate the payments under Section 4(a) for federal income tax purposes in accordance with Exhibit "B" attached hereto.

(e) As security for Buyer's payment and other obligations to Seller hereunder and under the Royalty Agreement, Buyer hereby grants Seller a security interest in and to the Products, Intangibles and Inventory (as defined in Section 8(f) hereof) conveyed to Buyer hereunder. Buyer agrees to execute such UCC financing statements as are

reasonable to perfect said security interest. An "Event of Default" herein and under the Royalty Agreement shall be (i) the default in the payment of any amount due herein or under the Royalty Agreement and the continuation of such default for ten (10) days after written notification from Seller to Buyer of such default or (ii) a material breach of any other provision of this Agreement or the Royalty Agreement and the continuation of such breach for sixty (60) days after written notification from Seller to Buyer of such breach. Upon the occurrence of an "Event of Default," then Seller shall have all the rights and remedies provided by the relevant law.

(f) Buyer agrees to retain all of Seller's files transferred to Buyer hereunder and to provide Seller and NBA, upon reasonable request, access to such files for Seller's or NBA's reasonable purposes, including without limitation information required by Seller or NBA to prepare appropriate tax returns. Buyer shall retain Seller's files transferred hereunder to Seller for a minimum of five years from the date hereof.

(g) Buyer agrees to protect, defend, indemnify and hold harmless the Seller from and against any and all demands, claims, actions, liability, loss, damage, costs and expense (including reasonable attorney's fees) resulting from or arising out of any claim relating to the conduct of the business conveyed hereunder and sales of Products (except claims resulting from defects in the Inventory

purchased from Seller, unless such defects arise from acts or omissions of Buyer) from and after the Closing.

5. No Liabilities Being Assumed; Accounts Receivable.

(a) Buyer is not and shall not assume any liabilities of Seller of any nature or kind, whether absolute or contingent.

(b) Seller agrees to protect, defend, indemnify and shall hold harmless Buyer against any liabilities of Seller.

(c) Seller shall be responsible for any and all liability for any Products sold prior to the Closing and for the Inventory sold to Buyer at the Closing as long as such Inventory is not altered in any respect directly or indirectly by Buyer. Further, Seller shall reimburse Buyer for any Inventory of Seller sold prior to the date hereof and returned to Buyer prior to August 31, 1992.

6. Instruments of Conveyance and Transfer. At the Closing, Seller agrees to deliver to Buyer a bill of sale for the Assets and all evidence of Intangibles. Seller shall execute such other instruments prepared by Buyer as Buyer may from time to time reasonably request to evidence Buyer's title to the Assets, including the Intangibles. Seller shall deliver to Buyer at the Closing, all the Intangibles on hand.

7. Use of Name. On and after the Closing, Seller shall cease to use the name "Nose Better" and all confusingly similar names.

8. Representations and Warranties by Seller. Seller hereby represents and warrants that:

(a) The execution, delivery and performance of this Agreement has been authorized by Seller.

(b) To Seller's knowledge, the execution and delivery by the Seller of this Agreement and the performance by the Seller of this Agreement and the consummation of the transactions herein contemplated will not conflict with, or result in a breach of the terms of, or constitute a default under or violation of, any law or regulation of any governmental authority, domestic or foreign, or the Articles of Incorporation or By-Laws of Seller or the Purchase Agreement, dated April 18, 1989 (the "WBA Purchase Agreement") among Seller, Nose Better Associates, a Pennsylvania limited partnership ("NBA") and Wellspring Enterprises, Ltd., a Delaware corporation and general partner of NBA ("Wellspring"). To Seller's knowledge, no consent of any governmental authority is required to be obtained on the part of the Seller to permit the transactions contemplated by this Agreement.

(c) Other than as set forth in Exhibit "C" hereto, Seller has good and marketable title to all the Assets in each case subject to no security interest, lien, pledge, restriction, charge or encumbrance. To Seller's knowledge, none of the Assets nor the operation or maintenance thereof, contravenes any administrative regulation or any provision of law in such a way as to

materially and adversely affect the business or properties of Seller.

(d) Seller is not in default under the WBA Purchase Agreement and there have been no claims or defaults and there are no existing facts or conditions known to Seller which, if continued or on notice, will result in any claims or defaults under the WBA Purchase Agreement.

(e) To Seller's knowledge, the execution, delivery and performance by Seller of this Agreement, and the consummation of the transactions herein contemplated, will not conflict with or result in the breach or violation of, any judgment, order, writ, injunction or decree of any court or governmental department, commission, board, bureau, agency, or instrumentality, domestic or foreign, and Seller is not in default with respect to any such judgment, order, writ, injunction or decree relating to the Products. To the knowledge of Seller, no governmental agency has at any time challenged or questioned the legal right of the Seller to produce, manufacture, offer or sell any of its products, including the Products, and services in the present manner or style thereof.

(f) Exhibit "D" correctly sets forth a list of all patents, patent applications, copyright registrations and applications, trademarks, trademark registrations and applications, tradenames or commercial names, both domestic and foreign, presently owned, licensed, possessed, used or held by Seller in connection with the Products



(collectively, the "Intangibles"). The Intangibles also include:

**Trademarks:** All service marks, trademarks, trade names and logo types owned by the Seller specifically relating to the Products, together with the good will connected with the use of and symbolized by the marks used in connection with the Products.

**Copyrights:** All materials copyrights (none of which are registered), jingles, slogans, audio or video television and radio advertising production, disc tapes or recordings, selling sheets, ad slicks and promotion materials owned by the Seller relating specifically to the Products.

**Trade Secrets:** All data, information, formulae, marketing plans and sales plans owned by the Seller relating specifically to the Products which are not available to or in the general public realm.

Other than as set forth in Exhibit "D" hereto, Seller owns the entire right, title and interest in and to the Intangibles, and there are no licenses, sublicenses or grants relating to the use of any of the same which are believed to be owned by Seller and none of them so owned are to the best knowledge and belief of Seller being infringed by others or subject to a pending, or are to the best knowledge and belief of Seller, threatened challenge of infringement of the rights of others. To Seller's knowledge, the conduct of the business of Seller relating to

the Assets does not infringe any patent, patent rights, copyright, trademark, trade secret, trade right, tradename, commercial name, trade secret or other intangible assets of any third party.

(g) The Seller is not obligated, absolutely or contingently, to any person for a finder's fee, brokerage commission, or other similar payment in connection with the transactions contemplated by this Agreement, and the Seller will hold the Buyer harmless from any claim either incurs with regard to this Section 8(g).

(h) Seller has previously provided to Buyer a copy of its perpetual inventory record, dated ~~March 27~~ <sup>May 26</sup>, 1992, which is accurate to Seller's knowledge, as detailed on Exhibit "E" annexed hereto. ~~Individual items in the inventory as of the Closing shall not exceed 120% of the amount of such item reflected on such Perpetual inventory.~~ The Inventory of Seller on the Closing will consist of items of quality usable or saleable in the ordinary course of the business of Seller and none of such Inventory on the Closing shall have been in inventory for more than six months. ~~Such Inventory reflects trial sizes at no value and such trial sizes will have no value for purposes of this Agreement,~~ <sup>subject to Section 4 A.</sup> All of the items included in the Inventory on the dates of the Inventory are or will be the property of Seller. Inventory items shall include saleable finished goods and components necessary to manufacture the Products.

(i) Set forth on Exhibit "F" annexed hereto is a list of all licenses, permits or other authorizations held by the Seller from Federal, state or local authorities (except local business licensees), including the Food and Drug Administration, and to Seller's knowledge, such licenses, permits or other authorizations are the only ones required by Seller to offer the Products, and to operate Seller's facilities relating to the Products as currently conducted by Seller. Also set forth on Exhibit "F" hereto are all product liability claims related to the Products and any amounts paid in connection with such claims.

(j) Seller will pay all of its own expenses whether or not the transactions contemplated hereto are consummated. ~~Seller will pay all taxes imposed upon it by virtue of the transaction contemplated by this Agreement.~~

(k) No representation or warranty made by the Seller in this Agreement or made or to be made in the Exhibits hereto contains, or will contain when delivered, any untrue statement of a material fact or omits or will omit to state when delivered any material fact necessary to make any representation or warranty not misleading to a prospective purchaser of the Assets.

9. Representations and Warranties by Buyer.

(a) Buyer is a corporation duly organized, validly existing and in good standing under the laws of the State of California and has all the requisite power and

authority to own its properties as presently owned and to carry on its business as now conducted.

(b) Buyer has duly authorized the execution, delivery and performance of this Agreement.

(c) This Agreement constitutes a legal, valid and binding obligation of Buyer enforceable against it in accordance with its terms.

(d) Buyer is not obligated, absolutely or contingently, to any person for a finder's fee, brokerage commission, or other similar payment in connection with the transactions contemplated by this Agreement except George <sup>Fenick</sup> Fenick, and Buyer holds Seller harmless from any such claims it incurred, including claims of George <sup>Fenick</sup> Fenick.

(e) Buyer's principal place of business is in South El Monte, California.

10. The NBA Purchase Agreement. If Seller shall fail to pay any amounts due under the NBA Purchase Agreement, Buyer may pay such amount and deduct such amount from the payments due under Section 4 hereof or the Royalty Agreement. Seller has obtained all the consents required under the NBA Purchase Agreement to enter into and to consummate this Agreement.

11. Bulk Sales. Seller shall hold harmless and indemnify Buyer for any lack of non-compliance with Article 6 - Bulk Transfer of the Uniform Commercial Code of the State of Florida.

12. Non-Disclosure. Except as required by law, each of Seller and Buyer covenants that it shall not disclose to anyone other than its accountants, attorneys and employees any of the records of Seller relating specifically to the Assets. This provision shall not prohibit Seller from disclosing information concerning its business, customers and suppliers so long as such information is not specific to the Products.

13. [Reserved]

14. Non-Competition by the Seller.

(a) For three (3) years from and after the Closing, Goldline will not permit its name to be used by, nor engage in or carry on directly or indirectly, either for itself or as a member of a partnership or as a stockholder (except as a stockholder of less than one percent (1%) of the issued and outstanding stock of a publicly held corporation) or an owner or investor in any other form of business entity, or as an officer, a director, a manager, an operator, a trustee, an agent, an employee, a salesperson, an associate or a consultant of any person or any form of business entity, the business of selling a saline over-the-counter nasal spray with glycerin or aromatic vaporizing nasal gel in the United States or in each city, county or state within the United States where such business is then being conducted by Buyer.

(b) It is expressly understood by and between the parties hereto that the covenants contained in Section 14

hereof shall be deemed to be a series of separate covenants, one for each lien of business relating to the Products in each of geographic area specified. Each such separate covenant shall be referred to hereinafter as a "separate covenant". If, in any judicial proceeding, a court shall refuse to enforce one or more of the separate covenants because the time limit therein is too long or the geographic area is too large, it is expressly understood and agreed between the parties hereto that for the purpose of such proceeding such time limitation or geographic area shall be deemed reduced to the extent necessary to permit the enforcement of such separate covenant or covenants. If, in any judicial proceeding, a court shall refuse to enforce all of the separate covenants deemed included in Section 14 hereof because, taken together, they are more extensive (whether as to geographic area, scope of business, or otherwise) than necessary to protect Buyer, it is expressly understood and agreed between the parties hereto that those of such separate covenants which, if eliminated, would permit the remaining separate covenants to be enforced in such proceeding shall, for the purpose of such proceeding, be deemed eliminated from the provisions of this Agreement.

(c) ~~Consideration for the covenant not to compete contained in this Section 14. Buyer shall also pay to Seller on the Closing, Seventy-five Thousand Dollars (\$75,000).~~

15. Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when received, if mailed, first class and certified or registered, postage prepaid or sent by telefax, Federal Express or another air courier service for next business day delivery which requires a recipient, addressed to the party for whom they are intended at the following addresses:

(a) If to Seller:

GOLDLINE LABORATORIES, INC.  
1900 Commercial Boulevard  
Ft. Lauderdale, Florida 33309  
Telefax: (305) 491-7399  
Attention: Larry Zonner, (305) 491-4002  
Telefax: (305) 491-7399

(b) If to Buyer:

LEE PHARMACEUTICALS, INC.  
1434 Santa Anita Avenue  
South El Monte, California 91273  
Attn: Ronald G. Lee, President  
Telefax: (213) 686-1300

with a copy to:

Ronald P. Givner, Esq.  
Grayson, Givner, Booke, Silver & Wolfe  
16633 Ventura Boulevard  
Sixth Floor  
Encino, California 91436  
Telefax: (818) 788-3720

Such names and addresses may be changed by written notice, as described in this Section 15.

16. Entire Agreement and Amendments. This Agreement, including the Exhibits and certificates referred to herein which are a part hereof, contains the entire understanding

of the parties hereto with respect to the subject matter contained herein and may be amended or terminated only by a written instrument executed by Seller, and Buyer or their respective legal representatives, successors or permitted assigns. The Section headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

17. Governing Law. This Agreement shall be construed in accordance with the laws of the State of California.

18. Parties in Interest. This Agreement shall inure to the benefit of and be binding upon Seller and Buyer, and their respective successors and permitted assigns.

19. Expenses of Proceedings. In the event that any party hereto brings any type of proceeding to enforce the terms and conditions of this Agreement, the prevailing party in such proceeding shall be entitled to recover from the unsuccessful party all incidental costs and reasonable



attorneys' and paralegal's fees incurred by said prevailing party.

IN WITNESS WHEREOF, the parties hereto have duly executed this Agreement as of the date first written above.

LEE PHARMACEUTICALS, INC.  
a California corporation

By: Ronald G. Lee  
RONALD G. LEE, President

GOLDLINE LABORATORIES, INC.

By: [Signature]  
VICE PRESIDENT

