

UNITED STATES
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, D.C. 20549

FORM 8-K

CURRENT REPORT
Pursuant to Section 13 or 15(d) of the
Securities Exchange Act of 1934

Date of Report (Date of earliest event reported): January 23, 2009

RxElite, Inc.
(Exact Name of Registrant as Specified in Charter)

Delaware (State or Other Jurisdiction of Incorporation)	000-52454 (Commission File Number)	90-0366910 (IRS Employer Identification No.)
1404 North Main Street, Suite 100 Meridian, Idaho (Address of Principal Executive Offices)		83642 (Zip Code)

Registrant's telephone number, including area code: (208) 288-5550

(Former Name or Former Address, if Changed Since Last Report)

Check the appropriate box below if the Form 8-K filing is intended to simultaneously satisfy the filing obligation of the registrant under any of the following provisions:

- Written communications pursuant to Rule 425 under the Securities Act (17 CFR 230.425)
 - Soliciting material pursuant to Rule 14a-12 under the Exchange Act (17 CFR 240.14a-12)
 - Pre-commencement communications pursuant to Rule 14d-2(b) under the Exchange Act (17 CFR 240.14d-2(b))
 - Pre-commencement communications pursuant to Rule 13e-4 (c) under the Exchange Act (17 CFR 240.13e-4(c))
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Item 1.01. Entry into a Material Definitive Agreement.

On January 27, 2009, RxElite, Inc. (the “Company”) entered into a Stock Purchase Agreement (the “Stock Purchase Agreement”) with Piramal Healthcare, Inc. (the “Purchaser”). Pursuant to the Stock Purchase Agreement, the Company sold 100% of the issued and outstanding capital stock (the “Shares”) of RxElite Holdings Inc. (“Holdings”), a wholly owned subsidiary and the inhalation anesthetic gas distribution arm of the Company to the Purchaser (the “Disposition”) for a gross purchase price (the “Purchase Price”) of \$4,154,000. \$900,000 of the Purchase Price will be held in an escrow account pending resolution of certain disputed claims, pursuant to the terms of an Escrow Agreement among the Company, the Purchaser and Citibank, N.A., dated as of January 27, 2009 (the “Escrow Agreement”).

Immediately prior to the Disposition, the Company and Holdings entered into an Assignment and Assumption of Assigned Contracts Agreement dated as of January 27, 2009 (“Assignment and Assumption Agreement”), whereby the Company assigned to Holdings all contracts related to the inhalation anesthetic gas distribution business and Holdings assumed liabilities and obligations arising from such contracts. Holdings also transferred to the Company certain assets and liabilities pursuant to a Bill of Sale and Assignment between the Company and Holdings dated as of January 27, 2009 (the “Bill of Sale and Assignment”).

Pursuant to an Assignment, Assumption and Release Agreement, dated as of January 27, 2009, among the Company, Holdings and Purchaser (the “Purchaser Assignment, Assumption and Release Agreement”), the Company assigned to Holdings and was released from the Loan and Security Agreement, dated as of May 30, 2008, by and between the Company and an affiliate of Purchaser and certain related agreements including a junior secured promissory note of the Company in the original principal amount of \$3,000,000 that was held by Purchaser (the “Purchaser Note”).

The Company, Holdings, Castlerigg Master Investments Ltd. (“Castlerigg”) and the Purchaser entered into a Consent and Release Agreement, dated as of January 27, 2009 (the “Lender Consent and Release”), under which, at the closing of the Disposition, \$1,800,000 of the Purchase Price was paid to Castlerigg in partial repayment of the Company’s senior secured promissory note in the original principal amount of \$10,500,000 (the “Senior Loan”) held by Castlerigg, and \$646,069 of the Purchase Price was deposited into a blocked account of the Company as proceeds of collateral to be held as further cash collateral for the Senior Loan. Pursuant to the Lender Consent and Release, among other things, Castlerigg consented to the Disposition and released and terminated Holdings’ obligations as a guarantor of the Senior Loan and Castlerigg’s security interests and pledge of the Shares and assets related to the business sold.

The foregoing descriptions of the Stock Purchase Agreement, the Escrow Agreement, the Assignment and Assumption Agreement, the Bill of Sale and Assignment, the Purchaser Assignment, Assumption and Release Agreement and the Lender Consent and Release are qualified in their entirety by reference to the respective copies of such agreements, which are filed as Exhibits 10.1, 10.2, 10.3, 10.4, 10.5 and 10.6 hereto and are incorporated herein by reference.

Item 1.02. Termination of a Material Definitive Agreement.

The Company had entered into an Intercreditor and Subordination Agreement with Castlerigg, Holdings and the Purchaser, dated as of May 30, 2008 (the “Intercreditor Agreement”), pursuant to which the Purchaser Note was fully and unconditionally subordinated to the Senior Loan. Upon closing of the Disposition on January 27, 2009, as further described in Item 1.01, the Intercreditor Agreement was terminated.

Item 2.01. Completion of Acquisition or Disposition of Assets.

The information provided in Item 1.01 is hereby incorporated into this Item 2.01 by reference.

Item 8.01. Other Events.

In connection with the Disposition, the Company terminated its Commercial Lease – Triple Net and Option to Purchase Agreement with RS Hosac, Inc. (“Hosac”), dated as of April 20, 2007 and as amended to date (the “Lease Agreement”). On January 23, 2009, the Company, Holdings and Hosac entered into a Settlement Agreement and Mutual Release (the “Hosac Release”) and a related rescission agreement, pursuant to which the parties rescinded the Lease Agreement, and Hosac, on the one hand, and the Company and Holdings, on the other hand, exchanged mutual general releases. Holdings and the Company waived their rights to claim return of a \$625,000 security deposit.

On January 27, 2009, the Company and Piral Healthcare Limited, an affiliate of the Purchaser, issued a joint press release announcing the Disposition. On January 28, 2009, the Company issued a press release announcing the Disposition. The press releases are attached hereto as Exhibit 99.1 and Exhibit 99.2.

Item 9.01. Financial Statements and Exhibits.

(d) Exhibits.

Exhibit No. Description

- 10.1 Stock Purchase Agreement, between RxElite, Inc. and Piral Healthcare, Inc., dated as of January 27, 2009.
- 10.2 Escrow Agreement, among RxElite, Inc., Piral Healthcare, Inc. and Citibank, N.A., dated as of January 27, 2009.
- 10.3 Assignment and Assumption of Assigned Contracts Agreement, between RxElite, Inc. and RxElite Holdings Inc., dated as of January 27, 2009.
- 10.4 Bill of Sale and Assignment by and between RxElite, Inc. and RxElite Holdings Inc., dated as of January 27, 2009.
- 10.5 Assignment, Assumption and Release Agreement by and among RxElite, Inc., RxElite Holdings Inc. and Piral Healthcare, Inc., dated as of January 27, 2009.
- 10.6 Consent and Release Agreement by and among RxElite, Inc., RxElite Holdings Inc. and Castlerigg Master Investments Ltd., dated as of January 27, 2009.
- 99.1 Joint Press Release issued by RxElite, Inc. and Piral Healthcare Limited on January 27, 2009.
- 99.2 Press Release issued by RxElite, Inc. on January 28, 2009.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized.

RXELITE, INC.

Dated: January 29, 2009

By: /s/ Shannon M. Stith

Name: Shannon M. Stith

Title: Vice President of Finance

THIS STOCK PURCHASE AGREEMENT (the “Agreement”) is made and entered into as of January 27, 2009, by and between Piramal Healthcare, Inc. (“Purchaser”), a Delaware corporation and a direct wholly-owned subsidiary of Piramal Healthcare Limited, an Indian public limited company, and RxElite, Inc., a Delaware corporation (“Seller”).

RECITALS:

WHEREAS, Seller owns 100% of the issued and outstanding capital stock (the “Shares”) of RxElite Holdings Inc., a Delaware corporation (the “Acquired Company”); and

WHEREAS, Seller, through ownership of the Acquired Company, is engaged in the marketing and distribution of generic inhalation anesthetics for use in connection with human and veterinary procedures (the “Business”); and

WHEREAS, Purchaser is the holder of a junior secured promissory note of Seller in the original principal amount of \$3.0 million, pursuant to a Loan and Security Agreement, dated as of May 30, 2008 (the “Purchaser Loan”), between Purchaser and Seller; and

WHEREAS, Castlerigg Master Investments, Ltd. (the “Senior Lender”) is the holder of a senior secured promissory note of Seller in the original principal amount of \$10.5 million, as to which the Purchaser Loan is fully and unconditionally subordinated, secured on a senior basis to the Purchaser Loan, by substantially all of the assets and properties of Seller, including of the Acquired Company; and

WHEREAS, Seller wishes to sell the Shares to Purchaser, and Purchaser wishes to purchase the Shares, in order to acquire the Business, subject, in all cases, to the consent of the Senior Lender, on the terms and conditions set forth in this Agreement.

NOW, THEREFORE, in consideration of the foregoing premises, the mutual covenants and other agreements set forth herein, and other good and valuable consideration, the receipt and sufficiency of which hereby are acknowledged, the parties hereto covenant and agree as follows:

**ARTICLE I
DEFINITIONS**

1.1 Defined Terms.

As used in this Agreement, the following defined terms shall have the meanings indicated below:

“Acquired Company” has the meaning set forth in the Recitals.

“Affiliate” means any Person that directly, or indirectly through one or more intermediaries, controls or is controlled by or is under common control with the Person specified; provided, however, “Affiliate” shall not include officers, directors or stockholders of Seller, or the officers and directors of the Acquired Company. For purposes of this definition, “control” when used with respect to any specified Person, means the power to direct the management and policies of such Person, directly or indirectly, whether through the ownership of voting securities, by contract or otherwise; and the terms “controlling” and “controlled” have meanings correlative to the foregoing.

“Agreement” means this Stock Purchase Agreement, as from time to time amended, modified or supplemented in accordance with its terms, including the Exhibits and Schedules attached hereto.

“Assigned Contracts” has the meaning set forth in Section 2.4.

“Balance Sheet Date” means January 18, 2009.

“Books and Records” means all existing employee, accounting, business, marketing, corporate and other files, documents, instruments, papers, books and records, including financial statements, budgets, ledgers, journals, deeds, titles, policies, manuals, minute books, stock certificates and books, equity transfer ledgers, contracts, franchises, permits, supplier lists, reports, computer files and data, retrieval programs and operating data or plans.

“Business” has the meaning set forth in the Recitals.

“Business Day” means a day other than Saturday, Sunday, or any day on which the principal commercial banks located in the State of Delaware or the State of New York are authorized or obligated to close under the Laws of such states.

“Claim” has the meaning set forth in Section 7.5(a).

“Closing Date” has the meaning set forth in Section 2.3.

“Closing Balance Sheet” means the balance sheet of the Company dated as the Balance Sheet Date. Within the Closing Balance Sheet, “column one” shall mean the first column entitled “RxElite, Inc. as of January 18, 2009” and “column three” shall mean the third column entitled “Rx Holdings as of January 18, 2009.”

“Code” means the Internal Revenue Code of 1986, as amended, and the rules and regulations promulgated thereunder.

“Company Plans” means each “employee benefit plan” (within the meaning of Section 3(3) of ERISA) and each stock purchase, stock option, other stock-based, severance, change-in-control, disability, vacation, holiday, sick leave, fringe benefit, bonus, incentive, deferred compensation, welfare and other employee benefit plan, program, policy or other arrangement; and any employment (including severance and change of control) agreement; whether or not subject to ERISA (including any funding mechanism therefor now in effect or required in the future as a result of the transactions contemplated by this Agreement or otherwise); whether formal or informal, oral or written; under which any employee or former employee or director (or dependent or beneficiary thereof) of the Acquired Company has any present or future right to benefits or which has been sponsored, contributed to or maintained by the Acquired Company.

“Constituent Documents” means, for any corporation, partnership, limited partnership, limited liability company or other organization, its Certificate of Incorporation, bylaws, partnership agreement, operating agreement, certificate of limited partnership, certificate of formation and other similar formation and governance documents, each as amended to the relevant date.

“Contract” means any agreement, lease, license, sublicense, promissory note, evidence of indebtedness, or other contract (i) to which Seller or the Acquired Company is a party and (ii) either (A) binds any assets of the Acquired Company or (B) relates to the Business as of the Closing Date.

“Controlled Group Member” means any entity (whether or not incorporated) other than the Seller and the Acquired Company that, together with the Seller and Acquired Company, is considered under common control and treated as one employer under Section 414(b), (c), (m) or (o) of the Code.

“Court Order” means any judgment, order, award or decree of any federal, state, local or other court or judicial or quasi-judicial tribunal and any award in any binding arbitration proceeding.

“Damages” means any and all damages, claims, costs, fines, fees, expenses, Taxes, penalties, interest obligations and deficiencies (including reasonable attorneys’ fees and other necessary expenses of litigation). Notwithstanding anything in this Agreement to the contrary, neither party nor any Affiliate thereof shall be liable for any consequential, incidental, special or punitive damages.

“Encumbrance” means any mortgage, pledge, assessment, security interest, lease, sublease, lien, adverse claim, levy, right of way, easement, covenant, charge or other encumbrance of any kind, or any conditional sale contract, title retention contract, or other agreement, arrangement or understanding to give or to refrain from giving any of the foregoing.

“Equity Security” and “equity interest” mean any “equity security” as such term is defined in the Exchange Act.

“ERISA” means the Employee Retirement Income Security Act of 1974, as amended.

“Escrow Account” has the meaning set forth in Section 2.2(b)(ii).

“Escrow Agreement” means the Escrow Agreement of even date herewith by and among Seller, Purchaser and Citibank, N.A.

“Exchange Act” means the Securities Exchange Act of 1934, as amended, and the rules and regulations promulgated thereunder.

“Excluded Assets” has the meaning set forth in Exhibit A and are excluded from the transaction in connection with the Reorganization.

“Excluded Contracts” has the meaning set forth in Exhibit B and are excluded from the transaction in connection with the Reorganization.

“Excluded Liabilities” has the meaning set forth in Exhibit B and are excluded from the transaction in connection with the Reorganization.

“Excluded Payables” has the meaning set forth in Exhibit B and are excluded from the transaction in connection with the Reorganization.

“GAAP” means accounting principles generally accepted in the United States of America, as consistently applied by the Acquired Company.

“Governmental Authority” means any national, state or local government; any political subdivision thereof; any other governmental, quasi-governmental, judicial, public or statutory instrumentality, authority, body, agency, department, bureau, commission or entity; any entity that contracts with a governmental entity to administer or assist in the administration of a government program; or any arbitrator with authority to bind a party at law.

“Indemnifying Party” has the meaning set forth in Section 7.5(a).

“Indemnitee” has the meaning set forth in Section 7.5(a).

“Intellectual Property” has the meaning set forth in Section 3.13.

“IRS” has the meaning set forth in Section 6.4(d).

“Knowledge” shall mean, with respect to a particular fact or other matter: (a) actual awareness of such fact or other matter; or (b) a prudent individual could be expected to discover or otherwise become aware of such fact or other matter in the course of conducting a reasonably comprehensive investigation concerning the existence of such fact or other matter. A Person (other than an individual) will be deemed to have “Knowledge” of a particular fact or other matter if any individual who is serving as a director, officer, partner, executor, or trustee of such Person (or in any similar capacity) has, or at any time had, knowledge of such fact or other matter.

“Laws” means all statutes, laws, ordinances, regulations and other pronouncements of any Governmental Authority having the effect of law of the United States, any state or commonwealth of the United States, or any city, county, municipality, department, commission, board, bureau, agency or instrumentality thereof.

“Liabilities” has the meaning set forth in Exhibit B.

“Material Contracts” shall have the meaning set forth in Section 3.8(a).

“Multiemployer Plan” means any “multiemployer plan” within the meaning of Section 3(37) or Section 4001(a)(3) of ERISA.

“Permits” means all licenses, permits, franchises, rights, registrations, approvals, authorizations, consents, waivers, exemptions, releases, certificates of need, variances or orders of, or filings with, or otherwise issued by, any Governmental Authority that relate to the Business.

“Permitted Encumbrance” means (a) any Encumbrance for Taxes or other governmental charges or assessments which are not delinquent, (b) any Encumbrance of any landlord, carrier, warehouseman, mechanic or materialman and any like Encumbrance arising in the ordinary course of business for sums that are not delinquent more than thirty (30) days, (c) Laws regulating the use or enjoyment of the applicable property, (d) all pledges or deposits in connection with workers’ compensation, unemployment insurance and other social security, (e) with respect to any leased Real Property, Encumbrances which encumber the fee interest in such property, and (f) any Encumbrance due and owing to Purchaser and its Affiliates or to Minrad International, Inc. and its Affiliates.

“Person” means any natural person, corporation, general partnership, limited partnership, limited liability company, union, association, court, agency, government, tribunal, instrumentality, commission, arbitrator, board, bureau or other entity or authority.

“Pre-Closing Period” has the meaning set forth in Section 6.4(a)(i).

“Prohibited Activities” has the meaning set forth in Section 5.1(a).

“Purchase Price” has the meaning set forth in Section 2.2.

“Purchaser” has the meaning set forth in the Preamble.

“Purchaser Indemnitee” has the meaning set forth in Section 7.2.

“Purchaser Loan” has the meaning set forth in the Recitals.

“Real Property” means all real property that is occupied or used in connection with the operation of the Business other than the Excluded Assets, including the real property and real property interests set forth on Schedule 3.9(a).

“Reorganization” has the meaning set forth in Section 2.4.

“Retained Assets” has the meaning set forth in Exhibit A.

“Retained Contracts” has the meaning set forth in Exhibit A.

“Retained Liabilities” has the meaning set forth in Exhibit B.

“Section 1.1502-95 Election” has the meaning set forth in Section 6.4(f).

“Section 338 Election” has the meaning set forth in Section 6.4(d).

“Securities Act” means the Securities Act of 1933, as amended, and the rules and regulations promulgated thereunder.

“Selected Accounting Firm” means an accounting or consulting firm of recognized national standing acceptable to Purchaser and Seller.

“Seller” has the meaning set forth in the Preamble.

“Seller Affiliated Group” means the affiliated group of corporations (as defined in Section 1504(a) of the Code) of which Seller is the parent.

“Senior Lender” has the meaning set forth in the Recitals.

“Seller Indemnitee” has the meaning set forth in Section 7.3.

“Shares” has the meaning set forth in the Recitals.

“Straddle Period” has the meaning set forth in Section 6.4(a)(ii).

“Survival Period” has the meaning set forth in Section 7.1.

“Tax” shall mean all taxes, charges, fees, levies, imposts, duties, and other assessments, including any income, alternative minimum or add-on tax, estimated, gross income, gross receipts, sales, use, transfer, transactions, intangibles, ad valorem, value-added, franchise, registration, title, license, capital, paid-up capital, profits, withholding, employee withholding, payroll, worker’s compensation, unemployment insurance, social security, employment, excise, severance, stamp, transfer occupation, premium, recording, real property, personal property, commercial rent, environmental or windfall profit tax, custom, duty or other tax, fee or other like assessment or charge of any kind whatsoever, together with any interest, penalties, related liabilities, fines or additions to Tax that may become payable in respect thereof imposed by any country, any state, county, provincial or local government or subdivision or agency thereof.

“Tax Adjustment” has the meaning set forth in Section 6.4(d).

“Tax Return” shall mean any return, declaration, report, claim for refund, or information return or statement relating to Taxes, including any schedule or attachment thereto, and including any amendment thereof.

“Tax Statement” has the meaning set forth in Section 6.4(a)(ii).

“Territory” has the meaning set forth in Section 5.1(a)(i).

1.2 Interpretation. The words “hereof,” “herein” and “herewith” and words of similar import shall, unless otherwise stated, be construed to refer to this Agreement as a whole and not to any particular provision of this Agreement, and article, section, paragraph, exhibit and schedule references are to the articles, sections, paragraphs, Exhibits and Schedules of this Agreement unless otherwise specified. Whenever the words “include,” “includes” or “including” are used in this Agreement, they shall be deemed to be followed by the words “without limitation.” All terms defined in this Agreement shall have the defined meanings contained herein when used in any certificate or other document made or delivered pursuant hereto unless otherwise defined therein. The definitions contained in this Agreement are applicable to the singular as well as the plural forms of such terms and, as appropriate, to the masculine, feminine and neuter genders of such terms. Any reference to this Agreement includes any Exhibits or Schedules hereto. References to a Person are also to its permitted successors and assigns.

ARTICLE II PURCHASE AND SALE; CLOSING

2.1 Sale of the Shares. On and subject to the terms and conditions set forth in this Agreement, at the closing, Seller shall sell, assign, transfer and deliver to Purchaser, free and clear of all Encumbrances, and Purchaser shall purchase from Seller, the Shares. At the closing, title to the Shares shall pass to Purchaser, as record and beneficial owner.

2.2 Purchase Price.

(a) The consideration to be paid by Purchaser for the Shares shall be Four Million One Hundred Fifty-Four Thousand Sixty-Nine Dollars and 30/100 (\$4,154,069.30) (the "Purchase Price").

(b) The Purchase Price shall be payable as follows:

(i) an aggregate of Three Million Two Hundred Fifty-Four Thousand Sixty-Nine Dollars and 30/100 (\$3,254,069.30) by wire transfer of immediately available funds at closing to an account or accounts designated by Seller; and

(ii) Nine Hundred Thousand Dollars (\$900,000.00) (the "Holdback Amount") payable by Purchaser to be held in an escrow account (the "Escrow Account") and disbursed pursuant to the terms of the Escrow Agreement; provided, however, that the Holdback Amount shall be reduced by any amounts owed to or properly payable to Purchaser pursuant to Article VII of this Agreement.

2.3 Closing. The closing of the transactions contemplated by this Agreement shall be deemed to occur at 11:59 p.m., Central Time, on the Closing Date or at such other time as shall be mutually agreed upon in writing by the parties hereto. The date on which the closing takes place is referred to herein as the "Closing Date."

2.4 Reorganization Transactions. Prior to the Closing Date, Seller shall have caused (a) the Acquired Company to transfer or assign the Excluded Assets and the Excluded Liabilities to Seller or its designated Affiliate, and (b) Seller or one or more of its designated Affiliates to assume the Excluded Assets and the Excluded Liabilities from the Acquired Company. Prior to the Closing Date, Seller shall have assigned to the Acquired Company (i) the customer contracts related to the Business that are held by Seller and are set forth on Schedule 2.4 (the "Assigned Contracts"), and (ii) the Purchaser Loan. The transactions described in this Section 2.4 shall be referred to herein as the "Reorganization".

2.5 Closing Deliveries. At the closing, the following events will occur:

(a) Ownership Interests. Seller will deliver to Purchaser all certificates representing the Shares, such certificates representing the Shares to be duly endorsed by Seller or accompanied by duly executed blank stock powers or other appropriate instruments of conveyance.

(b) Payment for Shares. At the closing, Purchaser shall pay the Purchase Price set forth in Section 2.2 in immediately available funds by electronic wire transfer to an account designated by Seller.

(c) Good Standing Certificates. Seller shall deliver to Purchaser a good standing certificate issued with respect to Seller and the Acquired Company issued by the Secretary of State of Delaware dated as of a date that is not more than thirty (30) days prior to the Closing Date. Purchaser shall deliver to Seller a good standing certificate issued with respect to Purchaser issued by the Secretary of State of Delaware dated as of a date that is not more than thirty (30) days prior to the Closing Date.

(d) Books. Seller shall deliver to Purchaser the original corporate minute books of the Acquired Company, including true and complete copies of the Constituent Documents of the Acquired Company and other records included in the Business.

(e) Powers of Attorney. Seller shall deliver to Purchaser evidence of termination of all powers of attorney between the Acquired Company and any other Person.

(f) Resignations. Seller shall deliver to Purchaser resignations, effective as of the Closing Date, of the officers and directors of the Acquired Company.

(g) FIRPTA Certificate. Seller shall deliver to Purchaser a certificate of non-foreign status that complies with Treasury Regulation Section 1.1445-2(b)(2).

(h) Opinion of Delaware Counsel. Purchaser shall receive an opinion of Delaware counsel in customary form for such opinion, that the purchase of the Shares does not require approval of the shareholders of Seller, and an opinion of counsel acceptable to Purchaser that the execution, delivery and performance of this Agreement and any other material agreement to be entered into by Seller pursuant to the terms of this Agreement have been duly authorized and approved by and on behalf of Seller.

(i) Secretary's Certificate. Purchaser and Seller shall deliver copies of the following, in each case certified as of the Closing Date by a Secretary or an Assistant Secretary:

(1) resolutions of the respective boards of directors of each party authorizing the execution, delivery and performance of this Agreement and the other agreements that such party is required to execute and deliver pursuant to the terms of this Agreement;

(2) the signature and incumbency of the officers of such party authorized to execute and deliver this Agreement and the other agreements and certificates that such party is required to deliver pursuant to this Agreement; and

(3) such party's Constituent Documents.

(j) Reorganization Transactions. Seller shall consummate or cause the Acquired Company to consummate, the reorganization transactions described in Section 2.4.

(k) Escrow Agreement. Seller and Purchaser shall deliver the fully executed Escrow Agreement.

ARTICLE III REPRESENTATIONS AND WARRANTIES OF SELLER

Seller represents and warrants to Purchaser as follows:

3.1 Organization of Seller. Seller is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware.

3.2 Organization and Capitalization of the Acquired Company.

(a) The Acquired Company (i) is a corporation validly existing and in good standing under the Laws of the State of Delaware and (ii) has the corporate power and authority to own or lease and to operate its assets and to conduct its business as currently conducted.

(b) The authorized capital of the Acquired Company consists of 100,000,000 shares of common stock, \$.00237 par value per share, 14,827,754 shares of which are issued and outstanding as of the date hereof. The Shares have been duly authorized, validly issued, fully paid and non-assessable. Except for the Shares, there are no outstanding equity securities of the Acquired Company, including (i) securities that are convertible into or exchangeable for any capital stock, partnership interests or membership interests of the Acquired Company, (ii) contracts, arrangements, commitments or restrictions relating to the issuance, sale, transfer, purchase or obtaining of capital stock or other equity securities of the Acquired Company, or (iii) options, warrants, rights, calls or commitments of any character granted or issued by the Acquired Company governing the issuance of shares of its capital stock.

(c) (i) Seller has good and marketable title to, and owns, the Shares, beneficially and of record; (ii) the Shares are free of all Encumbrances; (iii) Seller has full voting power over the Shares, subject to no proxy, stockholders' agreement, voting trust or other agreement relating to the voting of any of the Shares; and (iv) other than this Agreement, there is no agreement between Seller and any other Person with respect to the disposition of the Shares.

(d) (i) No Person has any preemptive right to purchase any equity interests in the Acquired Company, and (ii) other than the Shares, there are no outstanding equity interests in the Acquired Company giving the owner or holder thereof the right to vote on any matters on which stockholders, partners or members of the Acquired Company may vote.

(e) The Acquired Company does not directly or indirectly own, of record or beneficially, any equity security of any Person.

3.3 Authorization.

(a) The execution, delivery and performance by Seller of this Agreement and the other agreements to be entered into by it pursuant to the terms of this Agreement, and the consummation by Seller of the transactions contemplated hereby and thereby, are within Seller's corporate powers, are not in contravention of the terms of Seller's Constituent Documents, and have been duly authorized and approved by the board of directors of Seller. No other corporate proceedings on the part of Seller are necessary to authorize the execution, delivery and performance of this Agreement or any other agreement to be entered into by Seller pursuant to the terms of this Agreement.

(b) This Agreement has been duly and validly executed and delivered by Seller. As of the Closing Date, the other agreements to be entered into by Seller and by the Acquired Company pursuant to the terms of this Agreement will have been duly and validly executed and delivered by Seller and the Acquired Company. This Agreement constitutes (and upon their execution and delivery by Seller and the Acquired Company, the other agreements to be entered into pursuant to the terms of this Agreement by Seller and the Acquired Company will constitute) the legal, valid and binding obligations of Seller and the Acquired Company enforceable against Seller and the Acquired Company in accordance with their respective terms (assuming the valid authorization, execution and delivery hereof and thereof by Purchaser), subject to bankruptcy, insolvency, reorganization, moratorium and similar Laws of general application relating to or affecting creditors' rights and to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing.

3.4 No Conflicting Agreements; Consents. Except as set forth in Schedule 3.4, neither the execution and delivery of this Agreement or any of the other agreements to be entered into by Seller pursuant to the terms of this Agreement nor the consummation of any of the transactions contemplated hereby or thereby will:

(a) violate, conflict with, result in a breach or termination of the terms, conditions or provisions of, constitute a default under, or entitle any party to terminate or accelerate (i) the Constituent Documents of Seller or the Acquired Company, (ii) any Material Contract, (iii) any Court Order to which Seller or the Acquired Company is a party or by which Seller or the Acquired Company is bound, or (iv) any material requirements of Law affecting Seller;

(b) result in the creation or imposition of any Encumbrance upon any of the assets of the Acquired Company (except for Permitted Encumbrances); or

(c) require a permit, approval, consent or authorization from, or the making by Seller of any declaration, filing or registration with, any Governmental Authority, except as provided in Section 6.1.

3.5 Closing Balance Sheet; Accounts Receivable. Schedule 3.5 sets forth the Closing Balance Sheet of the Acquired Company. Column three of the Closing Balance Sheet fairly presents in all material respects the financial position of the Acquired Company as of the date indicated after giving effect to the Reorganization. All accounts receivable in such column three of the Closing Balance Sheet are valid obligations and represent bona fide claims against debtors for sales actually made or services actually performed in the ordinary course of the Business. There is no contest, claim or right of setoff, other than in the ordinary course of the Business, contained in any agreement with any maker of an account receivable relating to the amount or validity of such account receivable.

3.6 Absence of Undisclosed Liabilities; No Missing Assets.

(a) Except as disclosed in Schedule 3.6(a), the Acquired Company does not have any material liabilities of any nature (whether accrued, absolute, contingent or otherwise) that are of a type required to be disclosed or reflected in financial statements of the Acquired Company in accordance with GAAP after giving effect to the Reorganization except for (i) liabilities reflected or reserved against in column three of the Closing Balance Sheet (including the notes thereto, if any) and (ii) liabilities incurred in the ordinary course of business since the Balance Sheet Date and that are not (individually or in the aggregate) material to the Acquired Company.

(b) (i) The Acquired Company holds all right, title and interest in the Retained Assets, (ii) holds no right, title or interest in any assets other than the Retained Assets, and (iii) has no liabilities other than the Retained Liabilities.

(c) As a result of the consummation of the transactions contemplated hereby, Purchaser and its Affiliates shall hold all right, title and interest in the Retained Assets, which constitute all assets, tangible and intangible, real and personal, currently used in connection with the current operation of the Business.

3.7 Absence of Changes. Except as disclosed in Schedule 3.7, since September 30, 2008, there has not been any transaction or occurrence in which the Acquired Company, in connection with the Business, has:

- (a) suffered any material damage, destruction or loss;
- (b) disposed of or permitted to lapse any material right to the use of any Retained Assets;
- (c) made or entered into a commitment to make any material capital expenditure on behalf of the Acquired Company;
- (d) terminated or materially amended any Material Contract or lease to which the Acquired Company is a party, other than in the ordinary course of business; or
- (e) agreed, so as to legally bind Purchaser or the Acquired Company, whether in writing or otherwise, to take any of the actions set forth in this Section 3.7 and not otherwise permitted by this Agreement.

3.8 Contracts.

(a) Schedule 3.8(a) sets forth a true and complete list of each Contract (the “Material Contracts”), including each Assigned Contract, that relates to the Business and is not an Excluded Contract, and any Contract with respect to a period following the Closing Date (i) that provides for aggregate payments to or from the Acquired Company in excess of \$100,000 per contract year; (ii) that is an employment or severance Contract; (iii) that contains restrictions with respect to payment of dividends or any other distributions in respect of the capital stock or other equity interests of the Acquired Company; (iv) that guarantees any indebtedness or obligation of any Person; (v) that limits the ability of the Acquired Company to engage freely in any line of business in any geographic area or to compete with any Person; (vi) under which the Acquired Company has borrowed or loaned money, or that is a mortgage, note, bond, indenture or other evidence of indebtedness (excluding advances, deposits, trade payable in the ordinary course of business, and leases for telephones, copy machines, facsimile machines and other office equipment); (vii) that establishes any joint venture, partnership or other similar joint ownership entity or arrangement; (viii) with respect to the management of the Acquired Company; (ix) that is a consent decree of any Governmental Authority to which the Acquired Company is bound; (x) that (A) grants or acquires any right to use any Intellectual Property (other than Contracts granting rights to use readily available commercial software available to consumers for a combined license and maintenance fee or subject to “shrink wrap” or “click through” license agreements) or (B) restricts the right of the Acquired Company or permits any third Person to use any Intellectual Property; or (xi) that is an agreement between Seller and the Acquired Company, or their respective officers or directors. Copies of all Material Contracts have been made available to Purchaser.

(b) Each Material Contract is valid, binding and enforceable against the Acquired Company and, to Seller's Knowledge, against the other party to such Material Contract, subject to bankruptcy, insolvency, reorganization, moratorium and similar Laws of general application relating to or affecting creditors' rights and to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing, and Seller or the Acquired Company has duly performed in all respects its obligations under each Material Contract to which it is a party (to the extent that such obligations to perform have arisen).

(c) Neither Seller nor the Acquired Company is in breach or default (nor would there be a breach or default with notice or lapse of time or both as a result of events that have occurred) under any Material Contract.

3.9 Real Property. Schedule 3.9(a) sets forth the addresses for all Real Property leased by the Acquired Company or used in connection with the operation of the Business. Except as set forth on Schedule 3.9(a), all title, interest and other rights with respect to Real Property are held by the Acquired Company, which holds good and valid leasehold title, thereto, subject only to Permitted Encumbrances. The Acquired Company owns no Real Property.

3.10 Personal Property. Except as set forth on Schedule 3.10, the Acquired Company is in possession of and, except for Permitted Encumbrances, has good title to, or valid leasehold interests in or valid rights under contract to use, all of the personal property used in the conduct of the Business as presently conducted, including anesthetic vaporizers in the field or held as inventory. Except as set forth on Schedule 3.10, no outstanding rights, agreements or other commitments currently exist (including purchase options, rights of first refusal or rights of first offers) that give any Person a right to require the Acquired Company to sell or transfer to a third party any material interests in the personal property owned by it. All personal property used by Seller or its Affiliates in the conduct of the Business is in good working condition, ordinary wear and tear excepted. All inventory of the Acquired Company that is reflected on the Closing Balance Sheet or on the accounting records of the Company consists of a quality and quantity usable in the ordinary course of business, ordinary wear and tear excepted and if installed, subject to the use and control of the customer.

3.11 Employees; Labor Matters; Employee Benefit Plans; ERISA. The Acquired Company is not party to, or bound by, any collective bargaining agreement, contract or other agreement or understanding with a labor union or labor organization. Except as set forth on Schedule 3.8(a), the employment relationship of any and all employees of the Acquired Company is at will and is not subject to a Contract or other written employment agreement. The Acquired Company does not sponsor, adopt, maintain or participate in any Company Plan, and the Acquired Company has no liability with respect to any Company Plan. Except as disclosed in Schedule 3.11, since January 1, 2002, none of the Company Plans and no other plan or arrangement sponsored by, contributed to or maintained by Seller, any Acquired Company or any Controlled Group Member has been subject to Section 412 of the Code, Section 302 of ERISA and/or Title IV of ERISA or that is a Multiemployer Plan.

3.12 Taxes.

(a) Except as set forth in Schedule 3.12(a), (i) the Acquired Company has duly filed or caused to be filed, in a timely manner (taking into account all extensions of due dates) with the appropriate Governmental Authorities all Tax Returns which are required to be filed by the Acquired Company, (ii) all such Tax Returns are true, correct and complete in all material respects, (iii) all Taxes due and owing by, or required to be withheld by or with respect to, the Acquired Company (whether or not shown on any Tax Return) have been timely paid or timely withheld and paid and (iv) there are no Encumbrances on any of the assets of the Acquired Company with respect to Taxes, other than Permitted Encumbrances.

(b) Except as set forth in Schedule 3.12(b), (i) no deficiencies for Taxes have been claimed, proposed or assessed by any Governmental Authority for which the Acquired Company may have any liability, (ii) there are no pending or, to the Seller's Knowledge, threatened audits, investigations or claims for or relating to any liability in respect of Taxes for which the Acquired Company may have any liability, (iii) there are no matters presently pending, or to Seller's Knowledge, under discussion by Seller or the Acquired Company with any Governmental Authorities with respect to Taxes that may result in an additional amount of Taxes for which the Acquired Company may have any liability and (iv) no jurisdiction in which the Acquired Company does not file a Tax Return has made a claim in writing that the Acquired Company is required to file a Tax Return for such jurisdiction, and Seller has no Knowledge that any such jurisdiction has otherwise made any such claim.

(c) The Acquired Company has complied with all material applicable Laws relating to the payment and withholding of Taxes (including, but not limited to, withholding in connection with payments to employees, independent contractors, creditors, stockholders, partners or other third parties) and has, within the time and manner prescribed by Law, withheld and paid over to the proper Governmental Authorities all amounts required to be withheld and paid over under all applicable Laws.

(d) Seller Affiliated Group has filed all Tax Returns that it was required to file for each taxable period during which the Acquired Company was a member of the group. All such Tax Returns were correct and complete in all material respects. All Taxes owed by Seller Affiliated Group (whether or not shown on any Tax Return) have been paid for each taxable period during which the Acquired Company was a member of the group. To the Knowledge of Seller, no Governmental Authority is expected to assess any additional Taxes against Seller Affiliated Group for any taxable period during which the Acquired Company was a member of the group. There is no dispute or claim concerning any Tax liability of Seller Affiliated Group for any taxable period during which the Acquired Company was a member of the group either (A) claimed or raised by any Governmental Authority in writing or (B) as to which Seller has Knowledge.

3.13 Intellectual Property. The Acquired Company owns or has the right to use all patents, trademarks, trade names, service marks, trade secrets, copyrights, software and other intellectual property rights and licenses as are necessary to conduct the Business as currently conducted (the "Intellectual Property"). To the Knowledge of Seller, no infringement exists by the Acquired Company on the intellectual property rights of any other Person that results in any way from the operation of the Business. To Seller's Knowledge, there is no infringing use by any other Person of any of the Intellectual Property owned or used by the Acquired Company. Notwithstanding anything herein to the contrary, solely in the event of the closing of the merger of Minrad International, Inc. with an Affiliate of Purchaser, the foregoing representation shall not be deemed to include any Intellectual Property owned by, licensed to or from, or by which a right has been granted to or from, Minrad International, Inc. or its Affiliates.

3.14 Permits; Compliance with Law. True and complete copies of all Permits issued or granted by a Governmental Authority and owned or validly held by or issued to the Acquired Company in connection with the current operation of the Business have been provided or made available to Purchaser. Except as described on Schedule 3.14, such Permits constitute all Permits necessary for the conduct of the Business as currently conducted. Except as would not have a material adverse effect on the Business or financial condition of the Acquired Company taken as a whole, the Acquired Company and the Business are in compliance with all Permits and all Laws. Neither Seller nor the Acquired Company, nor any of their respective directors, officers, agents or employees, has engaged in any conduct that would reasonably be expected to result in any material violation of any Law. Except as disclosed on Schedule 3.14, neither Seller nor the Acquired Company has received any written notification, correspondence or any other written communication from any Governmental Authority of potential or actual material non-compliance by, or liability of, the Acquired Company under any Law.

3.15 [Reserved].

3.16 Legal Proceedings, Court Orders. Schedule 3.16 contains an accurate list of all pending litigation and Court Orders with respect to the Business or the Acquired Company. Other than as set forth in Schedule 3.16, to Seller's Knowledge, there are no actions, suits, proceedings, audits or investigations pending or threatened against Seller or any of its Affiliates with respect to the Business or the Acquired Company.

3.17 Customers and Suppliers. Schedule 3.17 hereto sets forth the five (5) largest suppliers and five (5) largest customers of the Business as of the date hereof.

3.18 Statements and Other Documents Not Misleading. Neither this Agreement, including all exhibits and schedules hereto, nor the other documents and agreements contemplated hereby or required to be delivered by the Acquired Company or Seller contains or will contain any untrue statement of a material fact or omits or will omit to state a material fact required to be stated in order to make such statement, document or other instrument not misleading. No other documents or instruments heretofore or hereafter furnished by the Acquired Company or Seller to Purchaser in connection with the transactions contemplated hereby contains or will contain any such untrue statement or omission of a material fact.

**ARTICLE IV
REPRESENTATIONS AND WARRANTIES OF PURCHASER**

Purchaser represents and warrants to Seller as follows:

4.1 Organization. Purchaser is a corporation duly organized, validly existing and in good standing under the Laws of the State of Delaware.

4.2 Corporate Authorization.

(a) The execution, delivery and performance by Purchaser of this Agreement and the other agreements to be entered into by Purchaser pursuant to this Agreement, and the consummation by Purchaser of the transactions contemplated hereby and thereby are within Purchaser's corporate powers, are not in contravention of the terms of Purchaser's Constituent Documents, and have been duly authorized and approved by the board of directors of Purchaser. No other corporate proceedings on the part of Purchaser are necessary to authorize Purchaser's execution, delivery and performance of this Agreement or the other agreements to be entered into by Purchaser pursuant to this Agreement.

(b) This Agreement has been duly and validly executed and delivered by Purchaser, and as of the Closing Date, the other agreements to be entered into by Purchaser pursuant to the terms of this Agreement will have been duly and validly executed and delivered by Purchaser. This Agreement constitutes, and upon their execution and delivery, such other agreements will constitute, the legal, valid and binding obligations of Purchaser, enforceable against Purchaser in accordance with their respective terms (assuming the valid authorization, execution and delivery hereof and thereof by Seller, the Acquired Company and any other unaffiliated entity that is a party thereto), subject to bankruptcy, insolvency, reorganization, moratorium and similar Laws of general application relating to or affecting creditors' rights and to general principles of equity, including principles of commercial reasonableness, good faith and fair dealing.

4.3 No Conflicting Agreements; Consents. Neither the execution and delivery of this Agreement nor any of the other agreements to be entered into by Purchaser pursuant to this Agreement nor the consummation of any of the transactions contemplated hereby or thereby will:

(a) violate, conflict with, result in a breach of the terms, conditions or provisions of, or constitute a default under (i) the Constituent Documents of Purchaser, (ii) any material agreement, lease, sublease, license, sublicense, promissory note, evidence of indebtedness or other contract (whether written or oral) to which assets of Purchaser are a party or by which Purchaser is bound, except such violations, conflicts, breaches or defaults which would not materially impair the ability of Purchaser to perform its obligations hereunder or under the other agreements contemplated hereby to be entered into by Purchaser or would not prevent the consummation of the transactions contemplated hereby or thereby, (iii) any Court Order to which Purchaser is a party or by which Purchaser is bound or (iv) any material requirements of Law affecting Purchaser, except such violations, conflicts, breaches or defaults of such requirements of Laws which would not materially impair the ability of Purchaser to perform its obligations hereunder or under the other agreements contemplated hereby to be entered into by Purchaser or which would not prevent the consummation of the transactions contemplated hereby or thereby; or

(b) require a permit, approval, consent or authorization from, or the making by Purchaser of any declaration, filing or registration with, any Governmental Authority, except as provided in Section 6.1 and except for such approvals, consents, authorizations, declarations, filings or registrations, the failure of which to be obtained or made would not materially impair the ability of Purchaser to perform its obligations hereunder or under the other agreements contemplated hereby to be entered into by Purchaser or prevent the consummation of the transactions contemplated hereby or thereby.

4.4 Legal Proceedings, etc. There are no material actions, suits or proceedings pending or, to Purchaser's Knowledge, threatened against Purchaser that would materially impair the ability of Purchaser to perform its obligations hereunder or under the other agreements contemplated hereby to be entered into by Purchaser or could reasonably be expected to delay or prevent the consummation of the transactions contemplated hereby or thereby.

4.5 [Reserved.]

4.6 Solvency. At the Closing Date, Purchaser will be solvent and able to pay its debts as they become due and will not become insolvent or otherwise unable to pay its debts as they become due as a result of the consummation of the transactions contemplated by this Agreement.

4.7 Investment Representations.

(a) Purchaser is acquiring the Shares for its own account and not with a view to the distribution thereof in contravention of the Securities Act.

(b) In proceeding with the transactions contemplated hereby, Purchaser is not relying upon any representation or warranty of Seller, Acquired Company or any of their officers, directors, employees, agents or representatives thereof, except the representations and warranties set forth herein.

(c) Purchaser has such knowledge and experience in financial and business matters as to be capable of evaluating the merits and risks of purchasing the Shares and to understand the risks of, and other considerations relating to, its purchase of the Shares.

(d) Purchaser is aware that upon closing, (i) the Shares will not have been registered under the Securities Act or any state's securities Laws, and (ii) no securities issued by the Acquired Company will be subject to the reporting requirements of the Exchange Act. Purchaser further understands that any certificates representing the Shares will include an appropriate legend to the effect that such securities have not been registered under the Securities Act or any state's securities Laws and that such securities may not be sold or transferred except in compliance with the Securities Act and applicable state securities Laws.

ARTICLE V COVENANTS OF SELLER

5.1 Non-Competition.

(a) In consideration for the benefits Seller will receive in connection with the transactions contemplated herein, which benefits Seller hereby acknowledges, and as further consideration for, and as a condition to, the transactions contemplated hereby, and in order that Purchaser shall receive and be able to maintain the benefit of the goodwill, trade secrets and confidential information which Seller enjoys and has enjoyed in connection with its ownership and operation of the Acquired Company, and recognizing that the covenants contained herein are not severable from such goodwill and are granted to Purchaser in order to protect the same, and in order to otherwise protect the legitimate business interests of Purchaser, Seller covenants and agrees that on behalf of itself and each of its Affiliates:

(i) for a period commencing as of the Closing Date and continuing thereafter for a period of two (2) years, Seller will not, directly or indirectly, operate, control, develop or own any interest (other than the ownership of less than five (5%) percent of the equity securities of a publicly traded company) or otherwise participate in any business that has activities relating to ownership of, the management or operation of, or consultation regarding the manufacturing, distribution or marketing of generic inhalation anesthetics for use in connection with human and veterinary procedures, in each State where the Acquired Company currently has operations (the "Territory"); and

(ii) Seller will not, directly or indirectly, for the purpose of any business or product competitive with the manufacture, marketing or sale of generic inhalation anesthetics for use in connection with human and veterinary procedures (A) interfere with, solicit, disrupt or attempt to disrupt any past, present or prospective relationship, contractual or otherwise, between Purchaser, the Acquired Company or their Affiliates, on one hand, and any customer, supplier (or other person obtaining goods or services from, or providing goods or services to, the business of the Acquired Company) or employee of Purchaser, the Acquired Company or their Affiliates (except as otherwise provided by applicable Law), on the other hand, or (B) solicit any past, present or prospective employee (including all officers and managers, all regional managers and all general managers) of Purchaser, the Acquired Company or their Affiliates to leave his or her employment with Purchaser, the Acquired Company or their Affiliates.

The activities described in clauses (i) and (ii) above are collectively referred to as the “Prohibited Activities.” The parties acknowledge that the Territory (with respect to clause (i) above) and Prohibited Activities substantially cover the geography and activities that comprise the market in which the Acquired Company conducts its operations and affairs.

(b) The Seller hereby acknowledges that its agreements not to engage in the Prohibited Activities are manifestly reasonable upon their face and that they are reasonable as to time and no greater than is required for the reasonable protection of Purchaser in light of the substantial harm that Purchaser would suffer should the Seller breach any of the provisions of this Section 5.1. The Seller further agrees that the nature, kind and character of the Prohibited Activities are reasonably necessary to protect the interests of Purchaser.

(c) If a judicial determination is made that any of the provisions of this Section 5.1 constitute an unreasonable or otherwise unenforceable restriction against the Seller, the provisions of this Section 5.1 shall be rendered void only to the extent that such judicial determination finds such provisions to be unreasonable or otherwise unenforceable and only with respect to Seller. Any judicial authority construing this Section 5.1 shall be empowered to sever any portion of the Territory or Prohibited Activities from the coverage of this Agreement and to apply the provisions of this Section 5.1 to the remaining portion of the Territory or the remaining activities not so severed by such judicial authority.

(d) Seller agrees that any violation of this Section 5.1 will result in irreparable injury to Purchaser, that a remedy at law for any breach or threatened breach of the covenants contained herein will be inadequate and that in the event of any such breach, Purchaser, in addition to any other remedies or damages available to Purchaser at law or in equity, shall be entitled to temporary injunctive relief before trial from any court of competent jurisdiction as a matter of course and to permanent injunctive relief without the necessity of proving actual damages or securing or posting any bond. In the event of any breach of this Section 5.1 and in addition to an injunction, Purchaser shall also be entitled to recover the amount of fees and other compensation earned by the Seller as a result of any such breach, plus any other damages a court of competent jurisdiction may find appropriate. The time period set forth in this Section 5.1 shall be tolled and suspended for a period of time equal to the aggregate quantity of time during which the Seller violates such prohibitions in any respect.

ARTICLE VI COVENANTS OF THE PARTIES

6.1 Regulatory Approvals. Purchaser will or will cause its Affiliate to (a) use commercially reasonable efforts to obtain, as promptly as practicable, all Permits, approvals, authorizations and clearances of Governmental Authorities necessary or desirable for the conduct of the Business by the Acquired Company following the Closing Date and shall make the filings and declarations with Governmental Authorities required therefor at Purchaser’s sole cost and expense, including filing applications for the licenses described on Schedule 6.1 within 90 days following the Closing Date and (b) provide such information and communications to applicable Governmental Authorities as is necessary in connection with the foregoing. Seller will cooperate with the Purchaser to obtain all Permits, approvals, authorizations and clearances of Governmental Authorities listed in Schedule 6.1, but shall not be required to undertake any expense or obligation in connection therewith unless reimbursed by Purchaser.

6.2 Post-Closing Access. Purchaser and Seller acknowledge that, subsequent to the Closing Date, Purchaser and Seller may each need access to information, documents or computer data in the control or possession of the other (or their respective Affiliates), and Seller may need access to the assets of the Acquired Company for purposes of concluding the transactions contemplated herein and for audits, investigations, compliance with governmental requirements, regulations and requests, preparation of Tax Returns and filings and the prosecution or defense of third party claims. Purchaser agrees that it will make available to Seller and shall cause the Acquired Company to make available to Seller, its Affiliates and their respective representatives, agents and independent auditors such documents and information as may be in the possession of Purchaser and its Affiliates relating to periods prior to the Closing Date and will permit Seller, its Affiliates and their respective representatives, agents and independent auditors to make copies of such documents and information during business hours upon reasonable prior notice to Purchaser. Seller agrees that Seller will make available to Purchaser, its Affiliates and their respective representatives, agents and independent auditors such documents and information as may be in the possession of Seller and its Affiliates relating to periods prior to the Closing Date and will permit Purchaser, its Affiliates and their respective representatives, agents and independent auditors to make copies of such documents and information. Purchaser agrees to retain all documents related to the Business for a minimum of three (3) years following the Closing Date.

6.3 Employee Matters. Seller and the Acquired Company shall have taken all necessary and appropriate actions, to be effective prior to or at the Closing Date, to (i) transfer employment of all employees of the Acquired Company to another affiliate of Seller, other than those employees identified on Schedule 6.3, without having incurred a termination of employment or separation from service, and (ii) transfer all obligations under any Contract or employment agreement from the Acquired Company to another affiliate of Seller other than for those employees identified on Schedule 6.3. Notwithstanding anything herein to the contrary, the Sellers and the Acquired Company shall take all necessary and appropriate actions to amend, merge, terminate or otherwise transfer the sponsorship of all Company Plans before the Closing Date to Seller or another affiliate of Seller.

6.4 Tax Matters.

(a) Payment of Taxes.

(i) Seller shall prepare and file, or cause to be prepared and filed, all Tax Returns of or which include the Acquired Company (including any amendments thereto) with respect to any taxable period ending at or prior to the Closing Date (a "Pre-Closing Period"). Seller shall provide Purchaser with copies of all such Tax Returns at least ten (10) days prior to the due date for the filing of such Tax Returns (including any extension thereof) for its review and comment. Notwithstanding anything to the contrary in this Agreement, Seller shall pay any and all Taxes imposed on or with respect to the Acquired Company for a Pre-Closing Period (including any and all Taxes imposed on the Acquired Company as a result of having been a member of the Seller Affiliated Group). Purchaser shall prepare and file, or cause to be prepared and filed, all Tax Returns of or which include the Acquired Company and shall pay all Taxes of the Acquired Company for all taxable periods other than a Pre-Closing Period, except to the extent provided in paragraph (ii) below.

(ii) For purposes of the immediately preceding paragraph (i) and this paragraph (ii), if the taxable period of the Acquired Company that includes the Closing Date does not terminate on the Closing Date (a "Straddle Period"), the parties hereto will, to the extent permitted by applicable Law, elect with the relevant Governmental Authority to treat a portion of any such Straddle Period as a short taxable period ending as of the Closing Date and such short taxable period shall be treated as a Pre-Closing Period for purposes of this Agreement. In any case where applicable Law does not permit such an election to be made then, for purposes of this Agreement, Taxes with respect to the Acquired Company for the Straddle Period shall be allocated to the Pre-Closing Period using an interim closing-of-the-books method that complies with Treas. Reg. Section 1.1502-76(b)(2)(i) (assuming that such taxable period ended on the Closing Date) and treating such period as a Pre-Closing Period for purposes of this Agreement, except that (A) exemptions, allowances or deductions that are calculated on an annual basis (such as the deduction for depreciation) shall be apportioned on a per diem basis, and (B) in the case of any Taxes not based on income, gain or receipts or specific purchases or sales, the portion of the Tax attributable to the Pre-Closing Period shall equal the Taxes for the entire Straddle Period, multiplied by a fraction the numerator of which is the total number of days in the Straddle Period through the Closing Date and the denominator of which is the total number of days in the Straddle Period. In the case of any Straddle Period described in the preceding sentence, Purchaser shall provide Seller and its authorized representatives with copies of the completed Tax Return for such period and a statement certifying the amount of Taxes shown on such Tax Return that are chargeable to Seller (the "Tax Statement") at least twenty (20) days prior to the due date for the filing of such Tax Return (including any extension thereof), and Seller and its authorized representatives shall have the right to review and comment on, at Seller's expense, each such Tax Return and Tax Statement prior to the timely filing of such Tax Return.

(iii) For all taxable periods of the Acquired Company ending on or before the Closing Date, Seller shall cause the Acquired Company to join in Seller's consolidated federal income Tax Return. Seller shall include the income of the Acquired Company (including any deferred items triggered into income by Treasury Regulation Section 1.1502-13 and any excess loss account taken into income under Treasury Regulation Section 1.1502-19) on Seller's consolidated federal income Tax Returns for all periods through the Closing Date and pay any Taxes attributable to such income. Such Tax Returns shall be prepared and filed in a manner consistent with prior practice, except as required by a change in applicable Laws. Purchaser shall have the right to review and comment on any such Tax Returns prepared by Seller. The consolidated federal income Tax Returns that include the Acquired Company for its taxable period that ends on the Closing Date and its taxable period that begins the day after the Closing Date shall be prepared in accordance with Treasury Regulations Section 1.1502-76(b)(1)(ii)(A). Purchaser and Seller further agree that the Acquired Company shall become a member of the federal income consolidated tax group of which Purchaser is the common parent on the day after the Closing Date. To the extent applicable, any state or local income Tax Returns shall be prepared in accordance with provisions comparable to Treasury Regulations Section 1.1502-76(b)(1)(ii)(A) under state or local Law.

(b) Cooperation. Following the Closing, Seller, on the one hand, and Purchaser and the Acquired Company, on the other hand, agree to furnish or cause to be furnished to each other or their respective representatives, upon request, as promptly as practicable, such information and assistance (including access to Books and Records) relating to the Acquired Company as is reasonably necessary for the preparation of any Tax Return, claim for refund, audit or similar matter, the prosecution or defense of any claim, suit or proceeding relating to any Taxes of the Acquired Company. If Seller and Purchaser disagree as to the matters governed by this Section 6.4, Seller and Purchaser shall promptly consult with each other in an effort to resolve such dispute. If any such disagreement cannot be resolved within thirty (30) days after either party asserts in writing that such dispute cannot be resolved, the Selected Accounting Firm shall act as an arbitrator to resolve such disagreement. The Selected Accounting Firm's determination shall be binding and conclusive, and any expenses relating to the engagement of such Selected Accounting firm shall be shared equally by Seller and Purchaser.

(c) Termination of Existing Tax Sharing Agreements. All tax sharing agreements or similar arrangements with respect to or involving the Acquired Company shall be terminated effective as of the Closing Date without any liability to the Acquired Company.

(d) Section 338 Election. At Purchaser's option, Seller will join with Purchaser in making an election under Section 338(h)(10) of the Code, and any corresponding elections under state, local or foreign tax law (collectively, a "Section 338 Election"), with respect to the purchase and sale of the Shares pursuant hereto. If the Section 338 Election is made, Seller and Purchaser and their respective Affiliates shall report the sale of the Shares pursuant to this Agreement consistent with the Section 338 Election and shall take no position contrary thereto in any Tax Return. If the Section 338 Election is made and IRS Form 8023 is filed with the Internal Revenue Service ("IRS"), Purchaser shall pay to Seller the amount of additional consideration necessary to cause Seller's after-Tax net proceeds from the sale of the Shares with the Section 338 Election to be equal to the after-Tax net proceeds that Seller would have received had the Section 338 Election not been made, taking into account all appropriate state, federal and local Tax implications (the "Tax Adjustment"). Seller and Purchaser shall cooperate in computing the amount of such Tax Adjustment after the parties have agreed to the allocation of the Purchase Price.

(e) Refunds and Carrybacks. Any and all refunds of Taxes relating to the Acquired Company for any period ending prior to the Closing Date shall be retained by Seller and for the account of Seller, and Purchaser shall pay over to Seller any such refund within twenty (20) days after receipt by Purchaser or the Acquired Company of any such amount. Notwithstanding the foregoing, Seller shall pay to Purchaser any Tax refund (or reduction in Tax liability) resulting from a carryback of a net operating loss or other Tax attribute of the Acquired Company that accrues following the Closing, and is carried back into the Seller's consolidated Tax Return, when such refund (or reduction) is received or realized by Seller Affiliated Group.

(f) NOLs. At Purchaser's option, Seller shall timely file an election under Treasury Regulations Section 1.1502-95(f), and any corresponding elections under state, local or foreign tax law (collectively, a "Section 1.1502-95 Election"), to apportion all of the Seller Affiliated Group's annual consolidated Code Section 382 limitation, if any, to the Acquired Company. If the Section 1.1502-95 Election is made, Seller and Purchaser shall cause the Acquired Company to join with Seller in making such Section 1.1502-95 Election.

ARTICLE VII INDEMNIFICATION

7.1 Survival. Except as otherwise provided in this Article VII, (a) each representation and warranty contained in Articles III and IV shall survive the closing for one (1) year after the Closing Date, and (b) covenants in this Agreement shall survive the closing. The period from the date hereof until the last date on which a representation, warranty, covenant or other obligation survives pursuant to this Section 7.1 shall be known as the "Survival Period."

7.2 Indemnification by Seller. Subject to the provisions of this Article VII, Seller shall indemnify and hold harmless Purchaser, any Affiliate of Purchaser, and their respective officers, directors, stockholders, employees, agents and representatives (each, a "Purchaser Indemnitee") from and after the Closing Date, from and against any Damages actually incurred by such Purchaser Indemnitee as a result of:

- (a) the Excluded Assets and Excluded Liabilities;
- (b) any breach, misrepresentation, or inaccuracy in any of the representations and warranties made herein by Seller;
- (c) any breach of any of the covenants or agreements made herein by Seller;
- (d) any Claims relating to the operations of the Acquired Company prior to the Closing Date; and
- (e) any Claims relating to or arising out of the Series A Preferred Stock of the Acquired Company, par value \$0.01 per share, including any Liabilities accruing, arising out of, or relating to the First Amended and Restated Conversion Agreement, dated as of April 26, 2007, by and among the Acquired Company and each of the persons who were holders of such Series A Preferred Stock.

7.3 Indemnification by Purchaser. Purchaser shall indemnify and hold harmless Seller, any Affiliate of Seller, and their respective officers, directors, stockholders, employees, agents and representatives (each a "Seller Indemnitee") from and after the Closing Date from and against any Damages actually incurred by such Seller Indemnitee as a result of:

- (a) any breach, misrepresentation, or inaccuracy in any of the representations and warranties made herein by Purchaser;
- (b) any breach of any of the covenants or agreements made herein by Purchaser; and
- (c) any Claims relating to the operations of the Acquired Company after the Closing Date; provided that nothing herein shall relieve Seller of its indemnification obligations pursuant to Section 7.2.

7.4 Limitations on Claims.

(a) Notwithstanding anything in this Article VII to the contrary, the rights of the parties to be indemnified and held harmless under this Agreement shall be limited as follows:

(i) no claims for indemnity by a Purchaser Indemnitee pursuant to Section 7.2(b) shall be made unless and until the aggregate of all Claims exceeds \$200,000, in which case Seller shall be obligated to indemnify, defend and hold harmless the Purchaser Indemnitee for all Damages;

(ii) the maximum aggregate liability of Seller for Claims pursuant to Section 7.2(a)-(d) shall be limited to \$1 million;

(iii) the maximum aggregate liability of Purchaser for Claims pursuant to Section 7.3(a) and (b) shall be limited to \$1 million; and

(iv) no claims for indemnity pursuant to Section 7.2(a)-(d) shall first be made by any party after the first anniversary of the Closing Date.

(b) The liability of a party with respect to any claim for indemnity by an Indemnitee pursuant to this Article VII shall be offset dollar for dollar by (i) any insurance proceeds actually received and retained by such Indemnitee after the Closing Date in respect of the Damages involved, and (ii) any other recovery made by such Indemnitee from any third party on account of the Damages involved.

(c) The parties' right to indemnification will not be affected or limited by any investigation conducted by or on behalf of such party, any preparation of compilation by such party of schedules to this Agreement or any knowledge acquired (or capable of being acquired) at any time.

(d) For purposes of calculating the amount of Damages to which a party is entitled under this Article VII (but not for determining whether a representation or warranty has been breached), the terms "material," "materiality," and other qualifiers, modifiers or limitations (including qualifiers as to "Knowledge") shall be disregarded.

(e) In the event of payment of any Claim, the Indemnifying Party (as defined below) shall be subrogated to any and all claims and causes of action of the Indemnitee (as defined below) and shall have the right to seek and retain the proceeds of any and all actions in furtherance thereof.

7.5 Claims Procedures.

(a) If a party seeks indemnification for Damages hereunder, the party seeking indemnification (the "Indemnitee") shall promptly notify the party from whom indemnification is sought (the "Indemnifying Party") in writing of the existence and nature of such Damages (a "Claim"), and shall include in the Claim a reasonably detailed description of all related claims, demands, actions or proceedings, if any, out of which the Damages arise; provided, however, that so long as a Claim is delivered within the applicable Survival Period, failure or delay by the Indemnitee to deliver a Claim in compliance with this provision shall only reduce the obligation of the Indemnifying Party to the extent that such failure impairs the Indemnifying Party's ability to defend the claim or mitigate Damages, in which case the Indemnifying Party shall have no obligation to indemnify the Indemnitee to the extent of Damages caused by such failure.

(b) In the event of a Claim related to a claim by a third party, the Indemnifying Party may elect to retain counsel of its choice to represent the Indemnitee in connection with such Claim and shall pay the fees, charges and disbursements of such counsel. The Indemnitee may participate, at its own expense and through legal counsel of its choice, provided that (i) the Indemnifying Party may elect to control the defense of the Indemnitee in connection with such Claim and (ii) the Indemnitee and their counsel shall cooperate with the Indemnifying Party and its counsel in connection with such Claim. The Indemnifying Party shall not settle any such proceeding without the relevant Indemnitees' prior written consent (which shall not be unreasonably withheld), unless the terms of such settlement provide for no relief other than the payment of monetary damages. Notwithstanding the foregoing, if the Indemnifying Party elects not to retain counsel and assume control of such defense or if both the Indemnifying Party and any Indemnified Party are parties to or subjects of such proceeding and conflicts of interests exist between the Indemnifying Party and such Indemnitee, then the Indemnitee shall retain counsel reasonably acceptable to the Indemnifying Party in connection with such proceeding and assume control of the defense in connection therewith, and the fees, charges and disbursements of no more than one such counsel per jurisdiction selected by the Indemnitee shall be reimbursed by the Indemnifying Party.

(c) If the Indemnifying Party shall, within a reasonable time after said notice, fail to defend, the Indemnatee shall have the right, but not the obligation, and without waiving any rights against the Indemnifying Party, to undertake the defense of, and with the consent of the Indemnifying Party (such consent not to be withheld unreasonably), to compromise or settle the Claim on behalf, for the account, and at the risk and expense, of the Indemnifying Party and shall be entitled to collect the amount of any settlement or judgment or decree and all costs and expenses (including reasonable attorneys' fees) in connection therewith from the Indemnifying Party. Under no circumstances will the Indemnifying Party have any liability in connection with any settlement of any proceeding that is entered into without its prior written consent (which shall not be unreasonably withheld). Except as provided in this Section 7.5(c), the Indemnatee shall not compromise or settle any Claim.

(d) From and after the delivery of a Claim, at the reasonable request of the Indemnifying Party, each Indemnatee shall grant the Indemnifying Party and its counsel, experts and representatives full access, during normal business hours, to the books, records, personnel and properties of the Indemnatee to the extent reasonably related to the Claim at no cost to the Indemnifying Party.

(e) If the Indemnatee or its Affiliates subsequently recover all or part of a third-party claim from any other Person legally obligated to pay the claim, the Indemnatee shall repay to the Indemnifying Party the amounts recovered up to an amount not exceeding the payment made by the Indemnifying Party to the Indemnatee by way of indemnity.

7.6 Investigations. The respective representations and warranties of the parties contained in this Agreement and the rights to indemnification set forth in Article VII shall not be deemed waived or otherwise affected by any investigation made, or knowledge acquired, by a party.

7.7 Reserved.

7.8 Tax Indemnification.

(a) Seller shall indemnify, defend and hold each Purchaser Indemnatee and the Acquired Company harmless from and against any and all Damages for: (i) Taxes of or imposed upon the Acquired Company with respect to any Pre-Closing Periods, and for any Straddle Periods but only with respect to the portion of such Straddle Period ending on the Closing Date and as determined in the manner provided in Section 6.4 of this Agreement; (ii) Taxes imposed on the Acquired Company under Treas. Reg. Section 1.1502-6 (and corresponding provisions of state, local, or foreign Law) as a result of having been a member of any federal, state, local or foreign consolidated, unitary, combined or similar group for any taxable period ending on or before, or that includes, the Closing Date, or as a transferee or successor, pursuant to any tax indemnification or sharing agreement, or similar contract or arrangement, or otherwise; (iii) any breach by Seller or its Affiliates of any of the covenants and obligations contained in Section 6.4 of this Agreement; (iv) the breach or inaccuracy of the representations and warranties set forth in Section 3.12 of this Agreement; and (v) Taxes imposed on or related or attributable to the Excluded Assets or the Reorganization.

(b) Purchaser shall indemnify, defend and hold each Seller Indemnatee harmless from and against any and all Damages for: (i) Taxes of or imposed upon the Acquired Company with respect to any taxable period beginning after the Closing Date, and for any Straddle Period but only with respect to the portion of such Straddle Period beginning after the Closing Date and as determined in the manner provided in Section 6.4 of this Agreement; and (ii) any breach by Purchaser of any of the covenants and obligations contained in Sections 6.4(d) and (e) of this Agreement.

(c) The amount of any Taxes for which indemnification is provided under this Section 7.8 shall not be (A) increased to take account of any net Tax cost incurred by the Indemnitee arising from the receipt of indemnity payments hereunder or (B) reduced to take account of any net Tax benefit realized by the Indemnitee arising from the incurrence or payment of any such Taxes. Any indemnity payment under this Agreement shall be treated as an adjustment to the Purchase Price for United States federal income tax purposes.

(d) Any indemnity payment required to be made pursuant to this Section 7.8 shall be paid within 30 days after the Indemnitee makes written demand upon the Indemnifying Party, but in no case earlier than five (5) Business Days prior to the date on which the relevant Taxes are required to be paid to the relevant Governmental Authority (including estimated Tax payments).

(e) In no event shall the indemnities provided for in this Section 7.8 be subject to the provisions of Section 7.4 of this Agreement.

ARTICLE VIII NOTICES

8.1 Notices. All notices and other communications hereunder shall be in writing and shall be deemed to have been duly given when delivered in person, when delivered by reputable overnight courier, or if mailed, five (5) days after being deposited in the United States mail, certified or registered mail, first-class postage prepaid, return receipt requested, to the parties at the following addresses or facsimile numbers:

If to Seller, to:	RxElite, Inc. 1404 North Main Meridian, Idaho 83642 Attention: President
With a copy to:	Haynes and Boone, LLP 1221 Avenue of the Americas Suite 2600 New York, New York 10020 Attention: Harvey J. Kesner, Esq.
If to Purchaser, to:	Piramal Healthcare, Inc. c/o Piramal Enterprises Ltd. D-Mart Bldg, Mulund Goregaon Link Road Mulund (West) Mumbai 400080 Attention: Madhu Nair
With a copy to:	Waller Lansden Dortch & Davis, LLP 511 Union Street, Suite 2700 Nashville, Tennessee 37219-1760 Attention: L. Hunter Rost, Esq.

Any party from time to time may change its address for the purpose of receipt of notices to that party by giving a similar notice specifying a new address to the other notice parties listed above in accordance with the provisions of this Section 8.1.

**ARTICLE IX
MISCELLANEOUS**

9.1 **Fees and Expenses.** Except as otherwise provided in this Agreement, Seller shall pay its own expenses (including those expenses of Seller and the Acquired Company in connection with this Agreement and the transactions contemplated hereby incurred prior to the Closing Date) and Purchaser shall pay its own expenses (including those of the Acquired Company in connection with this Agreement and the transactions contemplated hereby incurred after the Closing Date). Seller and Purchaser each shall pay one-half of all documentary or stamp taxes, if any, relating to the sale and the transactions provided for herein.

9.2 **Entire Agreement.** Except for documents and agreements executed pursuant hereto, and the other documents and agreements contemplated hereby, this Agreement supersedes all prior oral discussions and written agreements between the parties with respect to the subject matter of this Agreement (including any term sheet or similar agreement or document relating to the transactions contemplated hereby). This Agreement, including the Exhibits and Schedules hereto and other documents delivered in connection herewith, contains the sole and entire agreement between the parties hereto with respect to the subject matter hereof.

9.3 **Waiver.** Any term or condition of this Agreement may be waived at any time by the party which is entitled to the benefit thereof. Any such waiver must be in writing and must be duly executed by such party. A waiver on one occasion shall not be deemed to be a waiver of the same or any other breach, provision or requirement on any other occasion.

9.4 **Amendment.** This Agreement may be modified or amended only by a written instrument duly executed by each of the parties hereto.

9.5 **Counterparts; Facsimile Signatures.** This Agreement may be executed simultaneously in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Facsimile signatures on this Agreement shall be deemed to be original signatures for all purposes.

9.6 **No Third Party Beneficiary.** The terms and provisions of this Agreement are intended solely for the benefit of Seller, Purchaser and their respective Affiliates, successors or assigns, and it is not the intention of the parties to confer third party beneficiary rights upon any other Person.

9.7 **Governing Law.** THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE APPLICABLE TO A CONTRACT EXECUTED AND PERFORMED IN SUCH STATE. The parties hereto agree that no provisions of this Agreement or any related document shall be construed for or against or interpreted to the advantage or disadvantage of any party hereto by any court or other Governmental Authority by reason of any party's having or being deemed to have structured or drafted such provision, each party having participated equally in the structuring and drafting hereof. The parties' consent to the exclusive jurisdiction in any claim or proceeding relating to this Agreement or any matter involving the parties' relationship to the United States District Court located in Wilmington, Delaware.

9.8 **No Assignment.** Neither this Agreement nor any right hereunder or part hereof may be assigned by any party hereto without the prior written consent of the other party hereto; provided, however, that Purchaser may assign this Agreement to an Affiliate that agrees to be bound by the terms and conditions of this Agreement. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns, including successors by merger or otherwise.

9.9 **Severability; Invalid Provisions.** If any provision of this Agreement is held to be illegal, invalid or unenforceable under any present or future Law, (a) such provisions will be fully severable; (b) this Agreement will be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; (c) the remaining provisions of this Agreement will remain in full force and effect and will not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom; and (d) in lieu of such illegal, invalid or unenforceable provision, there will be added automatically as a part of this Agreement a legal, valid and enforceable provision as similar in terms and effect to such illegal, invalid or unenforceable provision as may be possible.

9.10 **Waiver of Jury Trial.** **EACH OF THE PARTIES IRREVOCABLY AND UNCONDITIONALLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY AND ALL RIGHTS TO TRIAL BY JURY IN CONNECTION WITH ANY LITIGATION OR PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY.**

9.11 Further Assurances. On and after the Closing Date, Seller, the Acquired Company and Purchaser will take all appropriate action and execute all documents, instruments or conveyances of any kind which may be reasonably necessary or advisable to carry out any of the provisions hereof, including (i) putting Purchaser in possession and operating control of the Business and the Acquired Company and (ii) putting Seller in possession of and party to all of the Excluded Assets and Excluded Contracts.

9.12 Specific Performance. The parties acknowledge and agree that any breach of the terms of this Agreement would give rise to irreparable harm for which money damages would not be an adequate remedy. Accordingly, the parties agree that, in addition to any other remedies, each party shall be entitled to enforce the terms of this Agreement by decrees of specific performance without the necessity of proving actual damages or posting bond.

9.13 Brokers. No Person (other than UBS Securities LLC, as financial advisor to Purchaser, and Oppenheimer & Co., Inc., as financial advisor to Seller and the Acquired Company) is entitled to receive any brokerage, finder's or other fee or commission in connection with this Agreement or the transactions contemplated hereby.

[The following page is the signature page.]

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IN WITNESS WHEREOF, the parties have caused this Stock Purchase Agreement to be executed as of the date first above written.

PIRAMAL HEALTHCARE, INC.

By: /s/ Muraj Rajan
Murari Rajan
President

RXELITE, INC.

By: /s/ Earl Sullivan
Name: Earl Sullivan
Title: CEO

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ESCROW AGREEMENT

This Escrow Agreement (this “*Agreement*”), dated as of January 27, 2009 (the “*Closing Date*”), is by and among Piramal Healthcare, Inc. (“*Purchaser*”), a Delaware corporation and a direct wholly-owned subsidiary of Piramal Healthcare Limited, an Indian public limited company, RxElite, Inc., a Delaware corporation (“*Seller*”), and Citibank, N.A., as escrow agent (the “*Escrow Agent*”).

RECITALS

A. Purchaser and Seller have entered into a Stock Purchase Agreement, dated as of January 27, 2009 (the “*Purchase Agreement*”) which provides, among other things, for the purchase by Purchaser from Seller of all of the issued and outstanding stock of RxElite Holdings, Inc., a Delaware corporation and wholly-owned subsidiary of Seller (the “*Acquired Company*”).

B. The Purchase Agreement provides that Seller will indemnify the Purchaser Indemnitees with respect to certain matters upon the terms and subject to the conditions provided in the Purchase Agreement and a portion of the consideration to be delivered thereunder shall be placed in escrow pursuant to the terms and subject to the conditions of this Agreement.

C. The Seller and the Purchaser wish to appoint Citibank, N.A. as Escrow Agent and Citibank, N.A. is willing to accept such appointment and has agreed to hold the Escrow Amount (as defined below) in accordance with the terms and provisions contained herein.

D. The parties hereto acknowledge that nothing herein is intended to serve as an admission or acknowledgement of any potential claim that may be asserted against the Acquired Company.

NOW, THEREFORE, in consideration of the mutual covenants and promises contained herein and for other good and valuable consideration, the receipt and adequacy of which are hereby acknowledged, the parties hereto agree as follows:

AGREEMENT

1. Definitions. Except as hereinafter defined, capitalized terms used in this Agreement will have the meanings assigned to such terms in the Purchase Agreement. As used herein, the following terms shall have the following respective meanings:

“*Claim*” means, individually and not collectively, a claim for Damages incurred by any Purchaser Indemnitee with respect to the Preferred Stock Liability or the Idaho Tax Liability.

“*Escrow Amount*” means an amount equal to Nine Hundred Thousand Dollars (\$900,000).

“*Idaho Tax Liability*” means any sales or use taxes, together with any interest, penalties, related liabilities, fines or additions to such taxes, imposed upon the Acquired Company by the Idaho State Tax Commission and relating to the purchase of vaporizers and/or sale of veterinary products by the Acquired Company with respect to any Pre-Closing Periods and for any Straddle Periods, but only with respect to the portion of such Straddle Period ending on the Closing Date and as determined in the manner provided in Section 6.4 of the Purchase Agreement.

“*Indemnifiable Amount*” means those Damages for which any Purchaser Indemnitee is entitled to indemnification pursuant to the Purchase Agreement.

“*Indemnitor*” means the Seller.

“*Preferred Stock Liability*” means any Liabilities relating to or arising out of any shares which were issued and outstanding at any time prior to the Closing Date of the Series A Preferred Stock of the Acquired Company, par value \$0.01 per share, including any Liabilities accruing, arising out of, or relating to the First Amended and Restated Conversion Agreement, dated as of April 26, 2007, by and among the Acquired Company and each of the persons who were holders of such Series A Preferred Stock, and any amendment thereto.

“*Preferred Stock Release Date*” means fifteen (15) business days following the earlier of: (i) the date of a final and binding settlement and release of the Acquired Company from the Preferred Stock Liability, (ii) a final, nonappealable order by a court of competent jurisdiction or other final, nonappealable adjudication, in either case releasing

the Acquired Company from the Preferred Stock Liability or (iii) the expiration of the period under which the Preferred Stock Liability can be asserted.

“*Tax Release Date*” means fifteen (15) business days following the earlier of: (i) the date of a written settlement of the Idaho Tax Liability by the Idaho State Tax Commission, or (ii) the date of a final, nonappealable order by a court of competent jurisdiction or other final adjudication of dismissal or discharge (or comparable release) of the Idaho Tax Liability or (iii) the expiration of the period of the statute of limitations under which the Idaho State Tax Commission may bring a claim for the Idaho Tax Liability, if no Claim is made.

2. Appointment of the Escrow Agent. Purchaser and Seller hereby designate and appoint Citibank, N.A. as the Escrow Agent for the purposes set forth herein, and the Escrow Agent hereby accepts such appointment on the terms herein provided. The Escrow Agent shall constitute the agent of the parties hereto solely to the extent required to execute its duties hereunder.

3. Deposit of Escrow Amount; Commencement of Duties. On the Closing Date, Purchaser shall deliver to the Escrow Agent the Escrow Amount by wire transfer of immediately available funds to the following account designated by the Escrow Agent in accordance with the wire instructions attached hereto as Attachment A:

Account Name:

Citibank FBO Piramal/RxElite, Inc. Escrow

Account Number:

796610

Upon receipt of the Escrow Amount by the Escrow Agent, the duties and obligations of the parties to this Agreement shall commence. The Escrow Amount, along with any interest or other investment income earned thereon held in escrow pursuant to this Agreement shall constitute the indemnification escrow fund (the “*Indemnification Escrow Fund*”) with respect to the Indemnitor’s indemnification obligations with respect to the Preferred Stock Liability and the Idaho Tax Liability.

4. Maintenance of Escrow. During the term of this Agreement, the Escrow Agent shall hold and safeguard the Indemnification Escrow Fund in accordance with this Agreement and shall disburse the Indemnification Escrow Fund only in accordance with this Agreement. The Escrow Amount shall not be subject to any lien, attachment, trustee process or any other judicial process of any creditor of any party, and shall be held and distributed solely for the purposes and in accordance with this Agreement.

5. Investment of Escrow Amount; Tax Reporting.

(a) Permitted Investments. The Escrow Agent shall invest the Escrow Amount pursuant to and as directed by a signed written instruction from both Purchaser and Seller. The Escrow Agent shall invest the Escrow Amount on the date of instruction provided that it is received on or before 11:00 a.m. (New York Time). Any Escrow Amount received by the Escrow Agent after 11:00 a.m. (New York Time) shall be treated as if received on the following Business Day. For purposes of this Agreement “*Business Day*” shall mean any day that the Escrow Agent is open for business. Any investment direction contained herein may be executed through an affiliated broker dealer of the Escrow Agent and will be entitled to such usual and customary fee. Neither Escrow Agent nor any of its affiliates assume any duty or liability for monitoring the investment rating.

(b) Tax Reporting. The parties hereto agree that Seller shall be treated as the owner of the Escrow Amount for federal income tax purposes and that Seller shall include in taxable income the earnings on the Escrow Amount. Such earnings shall be reported on a Form 1099 INT for interest earned or on a Form 1099 DIV for dividends earned.

(c) Certification of Tax Identification Number. Seller shall promptly provide the Escrow Agent with a duly completed and properly executed IRS Form W-9 certifying the Seller’s status as a beneficial owner of the Escrow Amount for federal income tax purposes. In the event the payee is not the Seller, the Seller shall provide the Escrow Agent with a duly completed and properly executed IRS Form W-9 (or Form W-8 BEN, in case of non-U.S. entity) on such payee prior to payment being made. Seller understands that, in the event tax identification numbers are not certified to the Escrow Agent, the Internal Revenue Code, as amended from time to time, may require withholding of a portion of any interest or other income earned on the investment of the Escrow Amount.

(d) IRS Circular 230 Disclosure. Escrow Agent, its affiliates, and its employees are not in the business of providing tax or legal advice to any taxpayer outside of Escrow Agent and its affiliates. This Agreement and any amendments or attachments are not intended or written to be used, and cannot be used or relied upon, by any such

taxpayer or for the purpose of avoiding tax penalties. Any such taxpayer should seek advice based on the taxpayer's particular circumstances for an independent tax advisor.

6. Purchaser Indemnitees' Rights to Assert Claim to Indemnification Escrow Fund. Subject to the terms of the Purchase Agreement, the Purchaser Indemnitees shall have the right to make one or more Claims related to the Preferred Stock Liability on or prior to the Preferred Stock Release Date and one or more Claims related to the Idaho Tax Liability on or prior to the Tax Release Date by delivering a written notice of such Claim (a "*Claim Notice*") to the Seller and the Escrow Agent prior to the relevant time, with a copy directed to each party as to which copies shall be directed pursuant to the notice provisions in Section 8.1 of the Purchase Agreement. Each Claim Notice shall be labeled either "Preferred Stock Liability Claim Notice" or "Idaho Tax Liability Claim Notice" and state facts relating to the Claim in reasonable detail so that the Seller may reasonably evaluate such Claim, including specifying the amount requested by the Purchaser Indemnitee to be released to the Purchaser Indemnitee in connection with such Claim, which estimate and statement may be amended or modified from time to time.

7. Issuance of Final Instruction. For purposes of this Agreement, a "*Final Instruction*" shall mean a written notice given to the Escrow Agent directing the disbursement of the Indemnifiable Amount of a Claim, which shall be signed both by the Purchaser and the Seller; except as otherwise provided herein. The parties hereto agree to execute and deliver to the Escrow Agent a Final Instruction accompanied by the indicated documentation, under the following circumstances:

(a) If the Seller disputes the validity, amount and/or calculation of the Claim and/or the related Indemnifiable Amount, the Seller shall give written notice of such dispute (a "*Dispute Notice*") to Purchaser, with a copy to the Escrow Agent, within 30 days after the receipt of the Claim Notice by the Seller. In such circumstances, no Final Instruction may be given to the Escrow Agent except as provided in (d) below and the Escrow Agent shall not make any disbursement of any portion of the Escrow Amount. In the event of a final determination by a court of competent jurisdiction in respect of the disposition of the Claim and the related Indemnifiable Amount, Seller and Purchaser shall execute a Final Instruction to the Escrow Agent providing the Escrow Agent with disbursement instructions consistent with such final determination.

(b) If the Seller does not dispute the Claim and the related Indemnifiable Amount, the Seller and Purchaser shall execute a Final Instruction to the Escrow Agent providing the Escrow Agent with disbursement instructions consistent with such final determination.

(c) If the Seller fails to send a Dispute Notice to Purchaser within 30 days after its receipt of the Claim Notice, Purchaser shall execute a Final Instruction to the Escrow Agent, with a copy to the Seller, stating that such thirty (30) day period has expired and providing the Escrow Agent with disbursement instructions consistent with such final determination.

(d) If the Seller and the Purchaser reach an agreement with respect to the proper determination of the Claim and the related Indemnifiable Amount, the Seller and the Purchaser shall give to the Escrow Agent a Final Instruction with respect to the Claim and the related Indemnifiable Amount.

(e) If the Seller and the Purchaser agree that a certain amount should be distributed out of the Indemnification Escrow Fund, then Seller and Purchaser shall execute a Final Instruction to the Escrow Agent providing the Escrow Agent with disbursement instructions consistent with such final determination.

(f) Notwithstanding anything to the contrary, in no event shall any disbursement be made from the Indemnification Escrow Fund with respect to the Idaho Tax Liability to the extent the amount of such disbursement plus all other disbursements with respect to the Idaho Tax Liability for which Final Instructions have previously or simultaneously been issued (collectively, the "Cumulative Tax Instruction Amount"), would in the aggregate exceed \$500,000 (i) plus any interest earned on the Indemnification Escrow Fund and (ii) less the amount, if any, by which the Cumulative Stock Instruction Amount (as defined below) exceeds \$400,000 at such time. Similarly, in no event shall any disbursement be made from Indemnification Escrow Fund with respect to the Preferred Stock Liability to the extent the amount of such disbursement plus all other disbursements with respect to the Preferred Stock Liability for which Final Instructions have previously or simultaneously been issued (collectively, the "Cumulative Stock Instruction Amount") would in the aggregate exceed \$600,000 (i) plus any interest earned on the Indemnification Escrow Fund and (ii) less the amount, if any, by which the Cumulative Tax Instruction Amount exceeds \$300,000 at such time.

8. Distribution of Indemnification Escrow Fund.

(a) Receipt of Final Instruction. Upon receipt of a Final Instruction in accordance with Section 7, the Escrow Agent shall disburse such portion of the applicable Escrow Amount as set forth in the Final Instruction.

(b) Preferred Stock Release Date. On or prior to Preferred Stock Release Date, Purchaser and Seller shall deliver a Final Instruction to the Escrow Agent notifying the Escrow Agent of (i) the Preferred Stock Release Date, (ii) whether any Purchaser Indemnitees have any outstanding Claims relating to the Preferred Stock Liability, and (iii) the amount and recipient of funds to be disbursed from the Indemnification Escrow Fund.

(1) If, on the Preferred Stock Release Date, the Purchaser Indemnitees have neither made any Claims relating to the Preferred Stock Liability in accordance with Section 6 hereof nor indicated in the Final Instruction any outstanding Claims relating to the Preferred Stock Liability, then the Escrow Agent shall deliver to the Indemnitor as promptly as practicable after the Preferred Stock Release Date an amount (the "*Preferred Stock Release Amount*") equal to either (i) if the Tax Release Date has already occurred, the remaining balance in the Indemnification Escrow Fund including any interest accrued thereon, or (ii) if the Tax Release Date has not yet occurred, then the positive difference between (x) \$400,000 and (y) the aggregate amount of any Claims paid out of the Indemnification Escrow Fund with respect to the Preferred Stock Liability, in accordance with Section 8(d) hereof.

(2) If any Purchaser Indemnitee has made a Claim or Claims relating to the Preferred Stock Liability on or prior to the Preferred Stock Release Date, and if, upon the Preferred Stock Release Date, the portion of the Indemnifiable Amount of such Claim or Claims (the "*Preferred Stock Release Deferred Portion*") (whether or not in dispute) that has not been paid out of the Indemnification Escrow Fund aggregates less than the Preferred Stock Release Amount, then the Escrow Agent shall deliver to the Indemnitor, in accordance with Section 8(d) hereof the Preferred Stock Release Amount less the Preferred Stock Release Deferred Portion. The Preferred Stock Release Deferred Portion shall be retained by the Escrow Agent until each unresolved Claim set forth in a Claim Notice delivered on or prior to the Preferred Stock Release Date has been completely and finally determined in accordance with the terms hereof, after which any portion of the Preferred Stock Release Deferred Portion that is determined pursuant to this Agreement to not constitute an Indemnifiable Amount shall be delivered by the Escrow Agent to the Indemnitor, in accordance with Section 8(d) hereof.

(3) If any Purchaser Indemnitee has made a Claim or Claims in accordance with Section 6 hereof and if upon the Preferred Stock Release Date, the portion of the Indemnifiable Amount of such Claim or Claims that has not been paid out of the Indemnification Escrow Fund (whether or not in dispute) aggregates more than the Preferred Stock Release Amount, then upon the Escrow Agent's receipt of a Final Instruction pursuant to Section 7, the Escrow Agent shall deliver to such Purchaser Indemnitee all or such portion of the Claim as is determined pursuant to this Agreement to constitute an Indemnifiable Amount, in accordance with Section 8(d) hereof.

(c) Tax Release Date. On or prior to the Tax Release Date, Purchaser and Seller shall deliver a Final Instruction to the Escrow Agent notifying the Escrow Agent of (i) the Tax Release Date, (ii) whether any Purchaser Indemnitees have any outstanding Claims relating to the Idaho Tax Liability, and (iii) the amount and recipient of funds to be disbursed from the Indemnification Escrow Fund.

(1) If, on the Tax Release Date, the Purchaser Indemnitees have neither made any Claims related to the Idaho Tax Liability in accordance with Section 6 hereof nor indicated in the Final Instruction any outstanding Claims relating to the Idaho Tax Liability, then the Escrow Agent shall deliver to the Indemnitor as promptly as practicable after the Tax Release Date an amount (the "*Tax Release Amount*") equal to either (i) if the Preferred Stock Release Date has already occurred, the remaining balance in the Indemnification Escrow Fund including any interest accrued thereon, or (ii) if the Preferred Stock Release Date has not yet occurred, the positive difference between (a) \$300,000 and (b) the aggregate amount of any Claims paid out of the Indemnification Escrow Fund with respect to the Idaho Tax Liability, in accordance with Section 8(d) hereof.

(2) If any Purchaser Indemnitee has made a Claim or Claims relating to the Idaho Tax Liability on or prior to the Tax Release Date, and if, upon the Tax Release Date, the portion of the estimated Indemnifiable Amount of such Claim or Claims (the "*Tax Release Deferred Portion*") (whether or not in dispute) that has not been paid out of the Indemnification Escrow Fund aggregates less than the Tax Release Amount, then the Escrow Agent shall deliver to the Indemnitor, in accordance with Section 8(d) hereof the Tax Release Amount less the Tax Release Deferred Portion. The Tax Release Deferred Portion shall be retained by the Escrow Agent until each unresolved Claim set forth in a Claim Notice delivered on or prior to the Tax Release Date has been completely and finally determined in accordance with the terms hereof, after which any portion of the Tax Release Deferred Portion that is determined pursuant to this Agreement to not constitute an Indemnifiable Amount shall be delivered by the Escrow Agent to the Indemnitor, in accordance with Section 8(d) hereof.

(3) If any Purchaser Indemnitee has made a Claim or Claims in accordance with Section 6 hereof and if upon the Tax Release Date, the portion of the Indemnifiable Amount of such Claim or Claims that has not been paid out of the Indemnification Escrow Fund (whether or not in dispute) aggregates more than the Tax Release Amount, then upon the Escrow Agent's receipt of a Final Instruction pursuant to Section 7, the Escrow Agent shall deliver

to such Purchaser Indemnitee all or such portion of the Claim as is determined pursuant to this Agreement to constitute an Indemnifiable Amount, in accordance with Section 8(d) hereof.

(d) Distribution Instructions. Any distributions of all or a portion of the Indemnification Escrow Fund made to Purchaser or any Purchaser Indemnitee shall be made by wire transfer to, or c/o, Purchaser pursuant to the wire instructions listed on Attachment A (or such other instructions or address as may be provided in writing to the Escrow Agent by Purchaser). Any distributions of all or a portion of the Indemnification Escrow Fund made to Seller shall be made by wire transfer to Seller pursuant to the wire instructions listed on Attachment A (or such other instructions or address as may be provided in writing to the Escrow Agent by Seller).

9. Concerning the Escrow Agent.

(a) Escrow Agent Duties. Each party hereto acknowledges and agrees that (i) the duties, responsibilities and obligations of the Escrow Agent shall be limited to those expressly set forth in the Agreement and no duties, responsibilities or obligations shall be inferred or implied, (ii) the Escrow Agent shall not be responsible for any of the agreements referred to or described herein (including without limitation the Purchase Agreement), or for determining or compelling compliance therewith, and shall not otherwise be bound thereby, (iii) this Agreement shall constitute the entire agreement of the parties with respect to the subject matter and supersedes all prior oral or written agreements in regard thereto, (iv) the Escrow Agent shall not be required to expend or risk any of its own funds or otherwise incur any financial or other liability in the performance of any of its duties hereunder and (v) the Escrow Agent shall not be obligated to take any legal or other action hereunder which might in its judgment involve or cause it to incur any expense or liability unless it shall have been furnished with acceptable indemnification.

(b) Standard of Care. The Escrow Agent shall be under no duty to afford the Indemnification Escrow Fund any greater degree of care than it gives its own similar property. The Escrow Agent shall not be liable for any damage, loss or injury resulting from any action taken or omitted in the absence of gross negligence or willful misconduct.

(c) Limitation on Liability. Notwithstanding any other provision of the Agreement, the Escrow Agent shall not be liable (i) for any indirect, incidental, consequential, punitive or special losses or damages, regardless of the form of action and whether or not any such losses or damages were foreseeable or contemplated, (ii) for the acts or omissions of any nominees, correspondents, designees, agents, subagents or subcustodians, or (iii) for the investment or reinvestment of any Escrow Amount, or any liquidation of such investment or reinvestment, executed in accordance with the terms of the Agreement, including, without limitation, any liability for any delays (not resulting from its gross negligence or willful misconduct as adjudicated by a court of competent jurisdiction) in the investment or reinvestment of the Escrow Amount, any loss of interest incident to any such delays, or any loss or penalty as a result of the liquidation of any investment before its stated maturity date.

(d) Reliance. The Escrow Agent shall be entitled to rely upon any order, judgment, certification, demand, instruction, notice, instrument, certification, consent, authorization, receipt, power of attorney, e-mail, .pdf or other writing delivered to it without being required to determine the authenticity or validity thereof, or the correctness of any fact stated therein or the propriety or validity or the service thereof or the jurisdiction of the court issuing any judgment or order. The Escrow Agent may act in reliance upon any signature believed by it to be genuine and may assume that any person purporting to make any statement or execute any document in connection with the provisions hereof has been duly authorized to do so.

(e) Consultation. The Escrow Agent may consult with counsel satisfactory to it (who shall not be counsel to any Purchaser Indemnitee, the Acquired Company or the Seller), and the written opinion or advice of such counsel shall be full and complete authorization and protection in respect of any action taken, suffered or omitted by it in good faith and in accordance with the opinion and advice of such counsel.

10. Indemnification of the Escrow Agent. Each of the Seller and Purchaser covenants and agrees, jointly and severally, to indemnify the Escrow Agent and its employees, officers and directors (each, an "Indemnified Party") for, hold each Indemnified Party harmless from, and defend each Indemnified Party against, any and all claims, losses, actions, liabilities, costs, damages and expenses of any nature incurred by the Escrow Agent arising out of or in connection with this Agreement or with the administration of its duties hereunder, including but not limited to attorney's fees, tax liabilities (other than income tax liabilities associated with the Escrow Agent's fees), any liabilities or damages that may result from any inaccuracy or misrepresentation made in any tax certification provided to the Escrow Agent, and other costs and expenses of defending or preparing to defend against any claim of liability, except to the extent such loss, liability, damage, cost and expense shall be caused by the Indemnified Party's own gross negligence or willful misconduct. The foregoing indemnification and agreement to hold harmless shall survive the termination of the Agreement and the resignation or removal of the Escrow Agent.

11. Fees and Expenses of the Escrow Agent. Seller covenants and agrees to pay the Escrow Agent's fees and expenses specified in Attachment B. In the event that such fees or expenses, or any other obligations owed to the Escrow Agent (or its counsel) are not paid to the Escrow Agent within 30 calendar days following the presentment of an invoice for the payment of such fees and expenses or the demand for such payment, then the Escrow Agent may, without further action or notice, pay such fees from the Indemnification Escrow Fund and may sell, convey or otherwise dispose of any amounts in the Indemnification Escrow Fund for such purpose. The Escrow Agent may in its sole discretion withhold from any distribution of the Indemnification Escrow Fund an amount of such distribution it reasonably believes would, upon sale or liquidation, produce proceeds equal to any unpaid amounts to which the Escrow Agent is entitled to hereunder.

12. Resignation and Removal.

(a) The parties hereto may remove the Escrow Agent at any time by giving to the Escrow Agent thirty (30) calendar days' prior written notice of removal signed by an Authorized Person of each of Seller and Purchaser. The Escrow Agent may resign at any time by giving to each Seller and Purchaser thirty (30) calendar days' prior written notice of resignation.

(b) Within thirty (30) calendar days after giving the foregoing notice of removal to the Escrow Agent or within thirty (30) calendar days after receiving the foregoing notice of resignation from the Escrow Agent, the Seller and Purchaser shall appoint a successor escrow agent and give notice of such successor escrow agent to the Escrow Agent. If a successor escrow agent has not accepted such appointment by the end of such (i) 30-day period, in the case of the Escrow Agent's removal, or (ii) 30-day period, in the case of the Escrow Agent's resignation, the Escrow Agent may either (x) deliver the Indemnification Escrow Fund to the Purchaser at the address set forth on the signature page to the Agreement, or (y) apply to a court of competent jurisdiction for the appointment of a successor escrow agent or for other appropriate relief.

(c) Upon receipt of notice of the identity of the successor escrow agent, the Escrow Agent shall either deliver the Indemnification Escrow Fund then held hereunder to the successor escrow agent, less the Escrow Agent's fees, costs, expenses and the value of other obligations owed to the Escrow Agent hereunder, or hold such Indemnification Escrow Fund (or any portion thereof) pending distribution, until all such fees, costs and expenses or the value of other obligations are paid to it.

(d) Upon delivery of the Indemnification Escrow Fund to the successor escrow agent or to the Purchaser, the Escrow Agent shall have no further duties, responsibilities or obligations hereunder.

13. Notices. Any notice, request, demand, waiver, consent, approval or other communication which is required or permitted hereunder shall be in writing. All such notices shall be delivered personally, by telecopier (but only if followed by transmittal by reputable overnight courier for delivery on the next business day), by certified mail, return receipt requested, or by reputable overnight courier (costs prepaid), and shall be deemed given or made upon receipt thereof. All such notices are to be given or made to the parties hereto at the following addresses (or to such other address as any such party may designate by a notice given in accordance with the provisions of this Section 13):

If to Purchaser, addressed to:

Piramal Healthcare, Inc.
c/o Piramal Enterprises Ltd.
D-Mart Bldg,
Mulund Goregaon Link Road
Mulund (West)
Mumbai 400080
Attention: Madhu Nair
Fax: 91-22-3953-6940

With a copy to:

Waller Lansden Dortch & Davis, LLP
511 Union Street, Suite 2700
Nashville, Tennessee 37219-1760
Attention: L. Hunter Rost, Esq.
Fax: (615) 244-6804

If to the Escrow Agent:

Citibank, N.A.
Agency & Trust
388 Greenwich Street, 14th Floor
New York, NY 10013
Attention: Marie Ladolcetta, Agency & Trust Dept.
Fax: (212) 657-2762

If to the Seller:

RxElite, Inc.
1404 North Main
Meridian, Idaho 83642
Attention: President
Fax: (208) 288-1191

With a copy to:

Haynes and Boone, LLP
1221 Avenue of the Americas
Suite 2600
New York, New York 10020
Attention: Harvey J. Kesner, Esq.
Fax: (212) 918-8989

14. Assignment. Neither this Agreement nor any or all of the rights or obligations hereunder may be assigned by any party without the prior written consent of the other party; except that Purchaser may, without such consent, assign any or all such rights and obligations to an assignee permitted under Section 9.8 of the Purchase Agreement. Subject to the foregoing, this Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors and permitted assigns, and no other person, shall have any right, benefit or obligation under this Agreement as a third party beneficiary or otherwise.

15. Amendment and Termination; Waiver. This Agreement may be amended by and upon written notice to the Escrow Agent given by Purchaser and the Seller, but the duties and responsibilities of the Escrow Agent may not be increased without its written consent. This Agreement will terminate on the date on which the entire Escrow Amount has been distributed, except such provisions, including without limitation Section 10 hereof, which by their terms are intended to survive any such distribution. No waiver by any party with respect to any condition, default or breach of covenant hereunder shall be deemed to extend to any prior or subsequent condition, default or breach of covenant hereunder or affect in any way any rights arising prior or subsequent to such occurrence.

16. Multiple Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument.

17. Invalidity. In the event that any one or more of the provisions contained in this Agreement, shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, then to the maximum extent permitted by law, such invalidity, illegality or unenforceability shall not affect any other provision of this Agreement.

18. Titles. The titles, captions or headings of the sections herein are for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

19. Cumulative Remedies. All rights and remedies of any party hereto are cumulative of each other and of every other right or remedy such party may otherwise have at law or in equity, and the exercise of one or more rights or remedies shall not prejudice or impair the concurrent or subsequent exercise of other rights or remedies.

20. Governing Law; Jurisdiction; Waivers.

(a) The parties agree (pursuant to section 5-1401 of the General Obligations Law of the State of New York) that, to the extent such laws would otherwise not apply, this Agreement (including this choice-of-law provision) and the rights and obligations of the parties to the Agreement shall be governed by, construed in accordance with, and all

controversies and disputes arising under, in connection with or in relation to this Agreement shall be resolved pursuant to, the laws of the State of New York applicable to contracts made and to be wholly performed in the State of New York.

(b) The parties irrevocably and unconditionally submit to the exclusive jurisdiction of the federal and state courts located in the Borough of Manhattan, City, County and State of New York, for any proceedings commenced regarding this Agreement, including, but not limited to, any interpleader proceeding or proceeding for the appointment of a successor escrow agent the Escrow Agent may commence pursuant to this Agreement. The parties irrevocably submit to the jurisdiction of such courts for the determination of all issues in such proceedings and irrevocably waive any objection to venue or inconvenient forum for any proceeding brought in any such court.

(c) The parties irrevocably and unconditionally waive, to the fullest extent permitted by law, and agree not to plead or claim, any right of immunity from legal action, suit or proceeding, from setoff or counterclaim, from the jurisdiction of any court, from service of process, from attachment upon or prior to judgment, from attachment in aid of execution or judgment, from execution of judgment, or from any other legal process or proceeding for the giving of any relief or for the enforcement of any judgment, and consents to such relief and enforcement against it, its assets and its revenues in any jurisdiction, in each case with respect to any matter arising out of, or in connection with, this Agreement.

(d) The parties irrevocably and unconditionally waive any right to trial by jury with respect to any proceeding relating to this Agreement.

21. Specific Performance. Each party hereto agrees that the other parties hereto shall be entitled to an injunction or injunctions to prevent material breaches of the provisions of this Agreement and to enforce specifically (without posting bond) this Agreement and the terms and provisions hereof in any action instituted in any court of the United States or any state thereof having jurisdiction over the parties and the matter, in addition to any other remedy to which they may be entitled, at law or in equity.

22. Instructions, Verification, Communications.

(a) All instructions required under the Agreement shall be delivered to the Escrow Agent in writing, in English, in facsimile form and, if so requested by the Escrow Agent, an original, executed by an Authorized Person (as hereinafter defined) of each of the Seller and Purchaser or an entity acting on their behalf. The identity of such Authorized Persons, as well as their specimen signatures, title, telephone number and e-mail address, shall be delivered to the Escrow Agent in the list of authorized signers form as set forth on Attachment C and shall remain in effect until the applicable party, or an entity acting on its behalf, notifies Escrow Agent of any change thereto (the person(s) so designated from time to time, the "Authorized Persons"). The Escrow Agent and the parties hereto agree that the above constitutes a commercially reasonable security procedure and further agree not to comply with any direction or instruction (other than those contained herein or delivered in accordance with the Agreement) from any party.

(b) In the event funds transfer instructions are given (other than in writing at the time of execution of this Agreement), whether in writing, by telecopier, .pdf, e-mail, or otherwise, such funds transfer instructions should contain a selected test word also evidenced on Attachment C. Test Words must contain at least 8 alphanumeric characters, established at document execution and changed each time Attachment C is updated in accordance with (a) above. In addition or in lieu of test words, the Escrow Agent is authorized to seek confirmation of such instructions by telephone call back to the applicable person(s) specified to the Escrow Agent from time to time by an Authorized Person and the Escrow Agent may rely upon the confirmations of anyone purporting to be the person(s) so designated. To ensure the accuracy of the instructions it receives, the Escrow Agent may record such call backs. If the Escrow Agent is unable to verify the instruction, or is not satisfied in its sole discretion with the verification it receives, it will not execute the instruction until all issues have been resolved to its satisfaction. The persons and telephone numbers for call backs may be changed only in writing, signed by an Authorized Person, actually received and acknowledged by the Escrow Agent. The parties to this Agreement acknowledge that these security procedures for funds transfers are commercially reasonable.

(c) To help the U.S. government fight the funding of terrorism and money laundering activities, Federal law requires all financial institutions to obtain, verify, and record information that identifies each person who opens an account. When an account is opened, the Escrow Agent will ask for information that will allow the Escrow Agent to identify relevant parties. The parties hereto hereby acknowledge such information disclosure requirements and agree to comply with all such information disclosure requests from time to time from the Escrow Agent.

(d) Notwithstanding anything to the contrary herein, any and all email communications (both text and attachments) by or from the Escrow Agent that the Escrow Agent deems to contain confidential, proprietary, and/or sensitive information shall be encrypted. The recipient (the "Email Recipient") of the encrypted email communication will be required to complete a registration process. Instructions on how to register and/or retrieve an encrypted message will be included in the first secure email sent by the Escrow Agent to the Email Recipient. Additional information and assistance

on using the encryption technology can be found at Citibank's Secure Email website at www.citigroup.com/citigroup/citizen/privacy/email.htm or by calling (866) 535-2504 (in the U.S.) or (904) 954-6181.

(e) The provisions of this Section 11(a)-(d) may be amended by the Escrow Agent unilaterally upon notice to the parties hereto.

[Signature Page to Follow]

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

PIRAMAL HEALTHCARE, INC.
as PURCHASER

By /s/ Muraj Rajan
Name: Muraj Rajan
Title: President

RXELITE, INC.
as SELLER

By /s/ Earl Sullivan
Name: Earl Sullivan
Title: CEO

CITIBANK, N.A.,
as ESCROW AGENT

By /s/ Miriam Molina
Name: Miriam Molina
Title: Vice President

ASSIGNMENT AND ASSUMPTION OF ASSIGNED CONTRACTS AGREEMENT

THIS ASSIGNMENT AND ASSUMPTION OF ASSIGNED CONTRACTS AGREEMENT (this “Agreement”) by and between RxElite Holdings, Inc., a Delaware corporation (the “Acquired Company”), and RxElite, Inc., a Delaware corporation (“Seller”) is effective immediately prior to the closing of the transactions contemplated by the Purchase Agreement (as defined below).

WITNESSETH:

WHEREAS, as part of the Reorganization contemplated by that certain Stock Purchase Agreement, dated as of January 27, 2009 (the “Purchase Agreement”), by and between Piramal Healthcare, Inc., a Delaware corporation (“Purchaser”), and Seller, whereby Purchaser will acquire from Seller all of the issued and outstanding stock of the Acquired Company, Seller agrees to sell, assign, transfer, convey and deliver certain of Seller’s contracts to the Acquired Company prior to the closing of the transactions contemplated under the Purchase Agreement; and

WHEREAS, Seller is a party to each of the Assigned Contracts and Seller desires to assign all its right, title and interest in the Assigned Contracts to the Acquired Company pursuant to the terms of the Purchase Agreement.

NOW, THEREFORE, in consideration of the premises and agreements set forth herein and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto hereby agree as follows:

1. Definitions. Capitalized terms used herein and not otherwise defined herein shall have the meanings given to them in the Purchase Agreement.
 2. Assignment. Seller hereby assigns, transfers and conveys to the Acquired Company all of Seller’s right, title and interest in and to the Assigned Contracts.
 3. Acquired Company Undertaking. The Acquired Company assumes and agrees to pay, perform and/or discharge in accordance with their terms the liabilities and obligations of Seller arising hereafter under the Assigned Contracts (except for liabilities or obligations arising out of any breach of any such Assigned Contract prior to the date hereof).
 4. Amendment and Modification; Waiver. Subject to applicable law, this Agreement may be amended, modified and supplemented only by written instrument authorized and executed by Seller and the Acquired Company at any time with respect to any of the terms contained herein. No waiver by any party of any of the provisions hereof shall be effective unless explicitly set forth in writing and executed by the party so waiving. The waiver by either party hereto of a breach of any provisions of this Agreement shall not operate or be construed as a waiver of any other or subsequent breach.
 5. GOVERNING LAW. THIS AGREEMENT SHALL BE GOVERNED BY AND CONSTRUED IN ACCORDANCE WITH THE LAWS OF THE STATE OF DELAWARE WITHOUT GIVING EFFECT TO THE PRINCIPLES OF THE CONFLICTS OF LAWS THEREOF.
 6. Inconsistencies with Purchase Agreement. Notwithstanding anything to the contrary contained herein, the terms of this Agreement are subject to the terms, provisions, conditions and limitations set forth in the Purchase Agreement, and this Agreement is not intended to alter the obligations of the parties to the Purchase Agreement. In the event of any inconsistencies between the terms of this Agreement and the terms of the Purchase Agreement, the parties hereto agree that the terms of the Purchase Agreement shall control.
-

7. Headings. The headings of this Agreement are for purposes of reference only and shall not limit or otherwise affect the meaning hereof.

8. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which together shall constitute only one instrument.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed in their names as of the date first above written.

SELLER:

RxElite, Inc.

By: /s/ Earl Sullivan

Name: Earl Sullivan

Title: CEO

ACQUIRED COMPANY:

RxElite Holdings, Inc.

By: /s/ Earl Sullivan

Name: Earl Sullivan

Title: CEO

FOR VALUE RECEIVED, effective immediately prior to the closing of the transactions as contemplated by that certain Stock Purchase Agreement, dated January 27, 2009 (the "Purchase Agreement"), by and between Piramal Healthcare, Inc., a Delaware corporation ("Purchaser"), and RxElite, Inc., a Delaware corporation ("Transferee"), whereby Purchaser will acquire from Transferee all of the issued and outstanding stock of RxElite Holdings, Inc., a Delaware corporation ("Transferor"), Transferor hereby transfers and delivers to Transferee, and Transferee hereby acquires and takes assignment and delivery of those assets and liabilities of Transferor included in the description of Excluded Assets on Exhibit A and Excluded Liabilities on Exhibit B to the Purchase Agreement, including, without limitation, (i) the Second Amended and Restated Employment Agreement with Earl Sullivan, dated as of November 27, 2006 and the Third Amended and Restated Employment Agreement with Earl Sullivan, dated as of January 12, 2009, (ii) the Employment Agreement with Shannon Stith, dated as of January 11, 2008, (iii) the Employment Agreement with Rick Schindewolf, dated as of January 21, 2008, as amended, (iv) the Initial Employment Agreement, dated as of January 8, 2007, as amended and updated, with Partick Poisson, (v) the Offer Letter Employment Agreement with Gene Ioli, dated as of August 29, 2007, as amended, (vi) the Second Amended and Restated Employment Agreement with Jonathan Houssian, dated as of November 27, 2006, (vii) the Employment Agreement with Steven Anderson, dated November 15, 2006, (viii) the Employment Agreement with Tri Slaven, dated May 10, 2006 and (ix) the Second Amended and Restated Employment Agreement with Richard Tener, dated November 27, 2006.

Transferee hereby assumes and agrees to pay, perform and/or discharge the liabilities and obligations under the Excluded Liabilities.

All terms used by not defined in this Bill of Sale and Assignment that are defined in the Purchase Agreement shall have the meanings given to them in the Purchase Agreement.

[Next page is signature page.]

IN WITNESS WHEREOF, Transferor and Transferee have caused this Bill of Sale and Assignment to be signed by their respective duly authorized officers as of the date first above written.

TRANSFEROR:

RxELITE HOLDINGS, INC.

By: /s/ Earl Sullivan

Name: Earl Sullivan

Title: CEO

TRANSFEE:

RxELITE, INC.

By: /s/ Earl Sullivan

Name: Earl Sullivan

Title: CEO

EX-10.5 6 v137927_ex10-5.htm ASSIGNMENT, ASSUMPTION AND RELEASE AGREEMENT
ASSIGNMENT, ASSUMPTION AND RELEASE AGREEMENT

This Assignment, Assumption and Release Agreement (this "Agreement") is made as of January 27, 2009, by and among RxElite, Inc., a Delaware corporation ("Assignor"), RxElite Holdings, Inc., a Delaware corporation and wholly owned subsidiary of the Assignor ("Assignee"), and Piramal Healthcare Inc. ("Lender").

WHEREAS, Assignor and Lender (as successor by assignment from NPIL Pharma Inc.) are parties to that certain Loan and Security Agreement dated as of May 30, 2008 (the "Loan and Security Agreement");

WHEREAS, in connection with the Loan and Security Agreement, Assignor issued a secured promissory note in the principal amount of \$3 million dated as of May 30, 2008 (the "Note" and, together with the Loan and Security Agreement, the "Loan Documents");

WHEREAS, the Assignor, through ownership of the Assignee, owns certain assets consisting of new and used vaporizers as well as the licenses and permits to permit the marketing and distribution of Sevoflurane anesthetic gas within certain states of the United States (the "Business");

WHEREAS, the Assignor owns 100% of the issued and outstanding capital stock of the Assignee (the "Shares");

WHEREAS, the Assignor wishes to sell the Shares to the Lender and the Lender wishes to purchase the Shares, in order to acquire the Business pursuant to a Stock Purchase Agreement dated as of the date hereof (the "Stock Purchase Agreement");

WHEREAS, Assignor desires to assign and Assignee desires to assume the Loan Documents and related obligations and Lender desires to consent to such assignment; and

WHEREAS, Lender desires to release any and all of its liens on and security interests in the Collateral.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and pursuant to the terms of this Agreement, the parties hereto agree as follows:

- 1. Defined Terms.** Unless otherwise defined herein, capitalized terms shall have the meanings given to them in the Loan Documents.
- 2. Assignment.** Assignor hereby assigns and delegates to Assignee all of its right, title, benefit, privileges and interest in and to, as well as all of its duties, obligations and covenants under, the Loan Documents.
- 3. Assumption.** Assignee hereby accepts such assignment from Assignor and assumes and agrees to observe and perform all of Assignor's duties, obligations and covenants under the Loan Documents, and to assume, pay and discharge all of Assignor's liabilities in connection with the Loan Documents.
- 4. Acceptance.** Lender hereby: (a) consents to Assignor's assignment and delegation of all of its right, title, benefit, privileges, interest and obligations in and to the Loan Documents to Assignee; and (b) accepts Assignee's assumption of the duties, obligations and covenants of Assignor under the Loan Documents occurring, arising or accruing out of the period from and after the date of this Agreement.
- 5. Representations of Lender.** Lender represents and warrants to Assignor and Assignee that (i) Lender owns the Note and any equity securities of the Assignor issued to the Lender pursuant to a Proposed Equity Offering, (ii) no persons other than Lender and the Assignor has any rights or obligations under the Loan and Security Agreement, the Note and the other Loan Documents and (iii) Lender has full right and authority, without consent or action of any other person, to take the actions set forth herein.
- 6. Release.** Lender hereby waives, releases, and forever discharges Assignor and its Affiliates (other than Assignee) and each of their past, present and future officers, directors, partners, members, stockholders, employees, agents, and representatives (the "Released Parties") from any and all claims, obligations, demands, actions, causes of action and liabilities, of whatsoever kind and nature, character and description, whether in law or equity, whether sounding in tort, contract or under other Laws, whether known or unknown, and whether anticipated or unanticipated (collectively, the "Claims") which Lender and/or its successors and assigns ever had, now have or may ever have, arising from any event, transaction, matter, circumstance or fact in any way arising out of, accruing, related to, with respect to or in connection with, based in whole or in part on, the Loan Documents; provided, however, that this release shall not affect any Claims that Lender, its successors and assigns may have against any of the Released Parties pursuant to the Stock Purchase Agreement, or the transactions contemplated thereby.

7. **Release of Collateral.** Lender hereby releases any and all of its liens on and security interests in the Collateral. Assignor is hereby irrevocably made, constituted and appointed the true and lawful attorney for Lender with full power of substitution to do the following (such power to be deemed coupled with an interest): (i) file and sign the name of Lender to such UCC-3 termination statements, assignments, instruments, documents and statements as necessary to release the liens of Lender in the Collateral; and (ii) do such other and further acts and deeds in the name of Lender necessary to release the liens of Lender in the Collateral.

8. **Grant of Security Interest.** In furtherance and not by way of limitation of the other provisions of this Agreement, Assignee hereby acknowledges that the Loan and Security Agreement contains the grant of security interests in favor of Lender, and by Assignee's assumption hereunder Assignee hereby grants Lender the same security interests in all its right, title and interest in the Collateral now existing and hereafter acquired, as provided for in the Loan and Security Agreement, and hereby agrees to execute and deliver at Assignee's sole cost and expense as of the date hereof amendments to the Loan and Security Agreement and any and all additional agreements, acknowledgements, financing statements and other documents Lender may reasonably require to effect and maintain Lender's first priority security interest in the Collateral, whether now existing or hereafter acquired.

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9. **Further Actions Necessary.** Each of the Parties hereto covenants and agrees, at its own expense, to execute and deliver, at the request of another Party hereto, such further instruments of transfer and assignment and to take such other action as such other Party may reasonably request to more effectively consummate the assignments and assumptions contemplated by this Agreement. Without limiting the foregoing, Lender agrees that it shall promptly (i) cause to be filed such UCC-3 termination statements or analogous records evidencing the termination of its liens on and security interest in the Collateral and (ii) deliver to Assignor such possessory collateral that Lender or its agents may have in its possession.

10. **Applicable Laws.** The Laws of the State of Delaware, other than its conflicts of laws rules, shall govern the construction and interpretation of this Agreement and the validity and enforceability of this Agreement, and of its provisions and the transactions pursuant to this Agreement.

11. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one agreement. Delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be effective as delivery of a manually executed counterpart of this Agreement.

[SIGNATURE PAGE FOLLOWS IMMEDIATELY]

- 3 -

IN WITNESS WHEREOF, each party hereto has caused this Assignment, Assumption and Release Agreement to be executed on its behalf, as of the day and year first above written.

ASSIGNOR:

RXELITE, INC.

By: /s/ Earl Sullivan
Name: Earl Sullivan
Title: President and Chief Executive Officer

ASSIGNEE:

RXELITE HOLDINGS, INC.

By: /s/ Earl Sullivan
Name: Earl Sullivan
Title: President and Chief Executive Officer

LENDER:

PIRAMAL HEALTHCARE INC.

By: /s/ Muraj Rajan
Name: Muraj Rajan
Title: President

This Consent and Release Agreement (this "**Agreement**") is entered into as of January 27, 2009, by and among RxElite, Inc., a Delaware corporation (the "**Company**"), RxElite Holdings, Inc., a Delaware corporation (the "**Acquired Company**"), Castlerigg Master Investments Ltd., a company organized and existing under the laws of the British Virgin Islands (the "**Lender**"), and Piramal Healthcare, Inc., a Delaware corporation ("**Purchaser**"). All capitalized terms used herein and not otherwise defined shall have the respective meanings ascribed to them in that certain Securities Purchase Agreement, dated as of December 31, 2007, by and between the Company and the Lender, as amended through the date hereof (the "**Securities Purchase Agreement**").

WHEREAS, in connection with the Securities Purchase Agreement, the Company issued to the Lender a senior secured promissory note in the original principal amount of \$10,500,000, dated as of December 31, 2007 (the "**Notes**");

WHEREAS, the Lender currently owns all of the outstanding Notes ;

WHEREAS, the Company owns 100% of the issued and outstanding capital stock of the Acquired Company (the "**Shares**") which have been pledged to the Lender as collateral for the Notes pursuant to a Pledge Agreement dated as of December 31, 2007 (the "**Pledge Agreement**"); the assets of the Acquired Company constitute "Collateral" for the Notes as defined in that certain Security Agreement by and between the Company and Lender dated as of December 31, 2007 (the "**Security Agreement**"); and the Acquired Company is guarantor of the Notes pursuant to that certain Guaranty dated as of December 31, 2007 by and between the Acquired Company and Lender (the "**Guaranty**");

WHEREAS, the Company wishes to sell the Shares to Purchaser and the Purchaser wishes to purchase the Shares (the "**Acquisition**") from the Company free and clear of any and all obligations to Lender, including without limitation those pursuant to the Securities Purchase Agreement, in order to acquire the Retained Assets and Retained Liabilities, as each such term is defined on Exhibit A annexed hereto, pursuant to the terms of a Stock Purchase Agreement, substantially in the form of Exhibit B annexed hereto (the "**Stock Purchase Agreement**");

WHEREAS, each of the Company, the Acquired Company and the Lender desire to facilitate the transactions contemplated by the Stock Purchase Agreement, and, subject to the terms hereof, approve the sale of the Acquired Company to Purchaser, terminate the pledge of the Shares under the Pledge Agreement, release any and all Retained Assets as collateral under the Notes, terminate the Guaranty, and along with the Purchaser, terminate the Intercreditor Agreement;

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and pursuant to the terms of this Agreement, the Lender, the Company and the Purchaser agree as follows:

1. **Representations of Lender.** Lender represents and warrants to Purchaser that (i) Lender owns all of the outstanding Notes issued under the Securities Purchase Agreement, and (ii) Lender has full right and authority, without consent or action of any other person, to take the actions set forth herein.

2. **Payment of Purchase Price.** The Purchaser and the Company hereby agree that \$2,546,069.30 of the Purchase Price (the “**Specified Sale Proceeds**”) shall be paid at the closing of the Acquisition as follows: (i) \$1,800,000 to the Lender in accordance with the wire instructions set forth in Section 1 on Exhibit C hereto; (ii) \$100,000 to Schulte Roth & Zabel LLP, in payment of legal fees in accordance with the wire instructions set forth in Section 2 on Exhibit C hereto; and (iii) \$646,069.30 into the blocked account of the Company, in accordance with the wire instructions set forth in Section 3 on Exhibit C hereto.

3. **Approval and Acceptance; Covenants Related to Challenge of Transactions.** The Lender, on its own behalf and as a Collateral Agent under the Transaction Documents, has fully reviewed the Stock Purchase Agreement, the Bill of Sale and Assignment by and between the Company and the Acquired Company, dated as of the date hereof, Assignment and Assumption of Assigned Contracts Agreement, by and between the Company and the Acquired Company, dated as of the date hereof, and all related documents and agreements (collectively, the “**Stock Purchase Documents**”), and hereby approves, accepts and consents to the sale of the Acquired Company and the transfer of the Retained Assets and Retained Liabilities pursuant to the terms of the Stock Purchase Documents. Lender has determined that the purchase price set forth in the Stock Purchase Documents (the “**Purchase Price**”), giving due consideration to the assumption of certain liabilities by Purchaser and other non-cash consideration, is reasonably equivalent value and represents fair consideration for the purchase of the Shares of the Acquired Company and all assets being purchased thereby (including without limitation the Retained Assets) net of all Retained Liabilities. Lender hereby covenants, now and forever, to refrain from challenging or contesting in any manner, in any forum, including without limitation a bankruptcy proceeding, that the Purchase Price is reasonably equivalent value and represents fair consideration for the purchase of the Shares and all assets being purchased thereby (including without limitation the Retained Assets) net of all Retained Liabilities.

4. **Release of Obligations and Collateral; Delivery of Possessory Collateral.** Upon (i) satisfaction of all closing conditions by the Company and the Purchaser under the Stock Purchase Agreement, including without limitation, the receipt by the Company of the Purchase Price and (ii) the receipt of the Specified Sale Proceeds in accordance with the terms hereof; automatically and without any further action by the parties to this Agreement, Lender agrees that: (x) all obligations of the Acquired Company under the Securities Purchase Agreement, the Notes, the Guaranty and the other Transaction Documents and (y) all security interests and other liens, rights of set off against, and pledges in favor of, granted to or held by Lender in or against the Acquired Company, including without limitation the Retained Assets (but excluding any lien of the Lender in the proceeds received by the Company as consideration for the sale of the Shares and the Retained Assets), the Shares, including without limitation, under the Securities Purchase Agreement, the Guaranty, the Notes, the Pledge Agreement, the Security Agreement or the other Transaction Documents shall each be deemed forever satisfied, automatically terminated and released. The Lender agrees in furtherance thereof, at the expense of the Company, to deliver to Purchaser any certificates evidencing the Shares previously delivered to the Lender and such other possessory collateral that Lender or its agents may have in its possession related to the assets of the Acquired Company (including without limitation the Retained Assets) and the Shares and shall be relieved of all responsibility for any such possessory collateral upon surrender thereof. Lender hereby authorizes the Company and the Purchaser to prepare and file any and all releases and terminations necessary to terminate any and all UCC financing statements or other documents filed against the Acquired Company (including without limitation the Retained Assets) by or on behalf of the Lender. For the avoidance of doubt, Lender shall continue to have a valid and enforceable lien on and security interest in all proceeds received by the Company in connection with the Acquisition, including without limitation, the Specified Sale Proceeds, in accordance with the Security Agreement and the Pledge Agreement. The Company acknowledges that Lender's liens on and security interests in all such proceeds continue to be valid and enforceable.

5. **Acknowledgement of Security Agreement, Security Interest and Liens.** Except as otherwise expressly provided herein, Company hereby confirms and agrees that:

(i) the Security Agreement is, and shall continue to be, in full force and effect and is hereby ratified and confirmed in all respects;

(ii) to the extent that the Security Agreement purports to assign or pledge to the Lender, or to grant to the Lender, a security interest in or lien on, any collateral other than the Shares or the assets of the Acquired Company (including without limitation the Retained Assets), as security for the Obligations (as defined therein), such pledge, assignment and/or grant of a security interest or lien is hereby ratified and confirmed in all respects as security for all Obligations, whether now existing or hereafter arising;

(iii) this Agreement does not and shall not affect any Obligations of the Company, all of which Obligations shall remain in full force and effect; and

(iv) the execution, delivery and effectiveness of this Agreement shall not operate as a waiver of any right, power or remedy of the Lender under any Transaction Document (as defined in the Security Agreement), nor constitute a waiver of any provision of any Transaction Document, other than as specifically set forth herein.

6. **Indemnity.** Company hereby agrees:

(i) to indemnify and hold harmless the Lender and its respective officers, directors, employees, attorneys, consultants and agents (each, an “**Indemnified Person**”) from and against any and all claims, damages, liabilities and expenses, including, without limitation, attorneys’ fees and disbursements, which may be incurred by or asserted against any Indemnified Person in any investigation, litigation, suit or action arising out of or relating to the release pursuant hereto of any security interest, lien, encumbrance or other charge granted to the Lender;

(ii) to pay all reasonable costs and expenses in connection with the preparation, negotiation, execution, delivery, filing and recording of this Agreement, and the performance of any other acts and the execution of any other documents required to effect the release of any security pursuant hereto, including, without limitation, the fees and disbursements of counsel to the Lender; and

(iii) to pay any and all stamp and other transfer or filing taxes and fees payable or determined to be payable in connection with the execution and delivery hereof or any release document pursuant hereto, and to hold each Indemnified Person harmless from and against any and all liabilities with respect to or resulting from any delay in paying or omission to pay such taxes or fees.

7. **Termination of Intercreditor and Subordination Agreement.** The Purchaser hereby acknowledges the assignment of all obligations of the Company to the Acquired Company under that certain Loan and Security Agreement dated as of May 30, 2008, by and between the Company and Purchaser (as successor by assignment from NPIL Pharma Inc.) (as the same may be amended, restated, replaced, modified or supplemented from time to time the “**Subordinated Loan Agreement**”), and any and all documentation executed and/or delivered in connection with the Subordinated Loan Agreement (such documentation, together with the Subordinated Loan Document, the “**Subordinated Loan Documents**”) pursuant to the terms of Assignment, Assumption and Release Agreement dated as of the date hereof, by and between the Company, the Acquired Company and Purchaser (the “**Subordinated Loan Assignment**”). The parties hereto each hereby agrees that upon the effective date of the Subordinated Loan Assignment: (i) without recourse and without any representation or warranty of any kind, the Purchaser shall fully release and discharge the Company from any duty, liability or obligation under the Subordinated Loan Documents, and (ii) that Intercreditor and Subordination Agreement by and between Lender, Company, Acquired Company and Purchaser, dated as of May 30, 2008 (the “**Intercreditor Agreement**”), and the Guaranty Agreement are hereby terminated and no longer enforceable in any manner. Each of Lender, Company, Acquired Company, and Purchaser, and each of their respective affiliates, subsidiaries, officers, directors, employees, shareholders, agents, attorneys, and representatives as well as their successors and assigns, hereby release each other from any and all claims, obligations, rights, causes of action, and liabilities, of whatever kind or nature, whether known or unknown, whether foreseen or unforeseen, arising on or before the date hereof, which Lender ever had, now has or hereafter can, shall or may have against any of such parties, upon or by reason of any matter, cause or thing whatsoever, which are based upon, arise under or are related to the Intercreditor Agreement.

8. **Further Actions Necessary.** The Lender hereto covenants and agrees, at the expense of the Company, to execute and deliver, at the request of the Acquired Party or the Purchaser hereto, such further instruments and to take such other action as such party may reasonably request to more effectively consummate the purposes contemplated by this Agreement.

9. **No Other Waivers.** Except as expressly set forth herein, the terms of the Transaction Documents shall remain in full force and effect.

10. **Limitation on Agreements.** The terms and conditions set forth herein are limited precisely as written shall not be deemed: (a) to be a consent under or waiver of any other term or condition in any of the Transaction Documents; or (b) to prejudice any right or rights which the Lender now has or may have in the future under, or in connection with the Transaction Documents, as may be amended.

11. **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original but all of which when taken together shall constitute but one agreement. Delivery of an executed counterpart of a signature page to this Agreement by telecopier shall be effective as delivery of a manually executed counterpart of this Agreement.

12. **Governing Law; Jurisdiction; Jury Trial.** All questions concerning the construction, validity, enforcement and interpretation of this Agreement shall be governed by the internal laws of the State of New York, without giving effect to any choice of law or conflict of law provision or rule (whether of the State of New York or any other jurisdictions) that would cause the application of the laws of any jurisdictions other than the State of New York. Each party hereby irrevocably submits to the exclusive jurisdiction of the state and federal courts sitting in The City of New York, Borough of Manhattan, for the adjudication of any dispute hereunder or in connection herewith or with any transaction contemplated hereby or discussed herein, and hereby irrevocably waives, and agrees not to assert in any suit, action or proceeding, any claim that it is not personally subject to the jurisdiction of any such court, that such suit, action or proceeding is brought in an inconvenient forum or that the venue of such suit, action or proceeding is improper. Each party hereby irrevocably waives personal service of process and consents to process being served in any such suit, action or proceeding by mailing a copy thereof to such party at the address for such notices to it under this Agreement and agrees that such service shall constitute good and sufficient service of process and notice thereof. Nothing contained herein shall be deemed to limit in any way any right to serve process in any manner permitted by law. **EACH PARTY HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE, AND AGREES NOT TO REQUEST, A JURY TRIAL FOR THE ADJUDICATION OF ANY DISPUTE HEREUNDER OR IN CONNECTION WITH OR ARISING OUT OF THIS AGREEMENT OR ANY TRANSACTION CONTEMPLATED HEREBY.**

[SIGNATURE PAGE FOLLOWS IMMEDIATELY]

IN WITNESS WHEREOF, each party hereto has caused this Consent and Release Agreement to be executed on its behalf, as of the day and year first above written.

COMPANY:

RXELITE, INC.

By: /s/ Earl Sullivan
Name: Earl Sullivan
Title: President and Chief Executive Officer

ACQUIRED COMPANY:

RXELITE HOLDINGS, INC.

By: /s/ Earl Sullivan
Name: Earl Sullivan
Title: President and Chief Executive Officer

LENDER:

CASTLERIGG MASTER INVESTMENTS LTD.
BY: SANDELL ASSET MANAGEMENT CORP.

By: /s/ Timothy O'Brien
Name: Timothy O'Brien
Title: Chief Financial Officer

PURCHASER:

PIRAMAL HEALTHCARE, INC.

By: /s/ Rajesh Laddha
Name: Rajesh Laddha
Title: Secretary and Treasurer



PRESS RELEASE

**Piramal Healthcare Limited Acquires
U.S. Inhalation Anesthetic Gas Distribution Business of RxElite, Inc.**

Mumbai, January 27, 2009: Piramal Healthcare Limited (“Piramal”) [NSE: Pirhealth, BSE: 500302], one of India’s largest pharmaceutical and healthcare companies, and RxElite, Inc. [OTCBB: RXEI.OB] jointly announced today that Piramal has acquired the entire issued outstanding capital stock of RxElite Holdings, Inc. (“RxElite”), the wholly owned subsidiary and the inhalation anesthetic gas distribution arm of RxElite, Inc. for cash consideration of approximately \$4.2 million. In addition, RxElite retained approximately \$3.2 million of outstanding indebtedness. A significant portion of the net proceeds from the sale will be used by RxElite to retire a portion of its long term debt.

The acquisition gives Piramal ownership of RxElite’s sales and distribution network in the U.S. and complements Piramal’s pending acquisition of inhalation anesthetic gas manufacturer Minrad International Inc. (“Minrad”), announced in December 2008, which is awaiting the approval of stockholders of Minrad. RxElite customers include hospitals and hospital group purchasing organizations, national and regional wholesalers, outpatient surgery centers and ambulatory care clinics.

Piramal’s acquisition of RxElite includes approximately 2,800 vaporizers required for administration of the inhalation of anesthetic gas, of which 2,300 are installed at various customer locations. Piramal will continue the employment of RxElite’s current sales and marketing specialists, as well as key administrative personnel.

For investor enquiries, please contact:

Sagar Gokani/Prasad Mhatre
Investor Relations Team, Piramal Healthcare Limited
Tel: +91 (0) 22 3046 6474/6489
investor.relations@piramal.com

For media enquiries, please contact:

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Notes to Editors:

About the Piramal Group

Spanning a broad spectrum of industries and formats, the Piramal Group is committed to achieving excellence and leadership by adhering to ethically sound, innovative and value-driven practices in its diverse, yet focused, business ventures and initiatives. The Group’s turnover exceeded US\$ 900 million in FY2008.

About Piramal Healthcare

Piramal Healthcare Limited (“PHL”) is one of India’s largest pharmaceutical companies with a growth track record of 29% CAGR in Sales and Profits since 1988. PHL had consolidated revenues of US\$ 580 million in 2007-08. The Company is currently ranked 4th in the Indian market with a diverse product portfolio spanning nine therapeutic areas. The Company is also one of the largest custom manufacturing companies with a global footprint of assets across North America, Europe and

Asia. PHL is listed in India on the National Stock Exchange (Ticker: PIRHEALTH) and the Bombay Stock Exchange (Ticker: 500302). For further information, visit www.piramalhealthcare.com

About RxElite, Inc.

RxElite, Inc. is a specialty pharmaceutical company that develops and markets generic prescription drug products in specialty generic markets. RxElite, Inc. also operates an Israeli subsidiary that manufactures and markets complex active pharmaceutical ingredients and provides research and development services to pharmaceutical companies throughout the world.

Forward-Looking Statements

Statements in this press release that are not statements of historical or current fact constitute “forward-looking statements” within the meaning of the Private Securities Litigation Reform Act of 1995, involving known and unknown risks, delays, and uncertainties that may cause RxElite’s actual results or performance to differ materially from those expressed or implied by these forward-looking statements. These risks, delays, and uncertainties include, but are not limited to: risks associated with the uncertainty of future financial results, RxElite’s ability to successfully integrate the operations of Finetech, the limited diversification of RxElite’s product offerings, additional financing requirements, development of new products, government approval processes, the impact of competitive products or pricing and technological changes. Additional risks and uncertainties are set forth from time to time in RxElite’s filings with the United States Securities and Exchange Commission, including its Registration Statement on Form S-1 which was declared effective on June 6, 2008, and its Annual and Quarterly Reports, which are available on the Commission’s website at www.sec.gov. All forward-looking statements included in this release are made as of the date of this press release, and RxElite assumes no obligation to update any such forward-looking statements.

RxElite, Inc. Announces the Sales of Its U.S. Inhalation Anesthetic Gas Distribution Business to Piramal Healthcare

Wednesday January 28, 2009, 6:08 pm EST

MERIDIAN, ID--(MARKET WIRE)--Jan 28, 2009 -- RxElite, Inc. (OTC BB:[RXEL.OB](#) - [News](#)) announces the sale of all the issued and outstanding capital stock of RxElite Holdings Inc. ("Holdings"), its wholly owned U.S. subsidiary, to Piramal Healthcare Limited ("Piramal") for cash consideration of approximately \$4.2 million. In addition, approximately \$3.2 million of outstanding indebtedness and accrued interest due to an affiliate of Piramal was assumed by Holdings and is no longer an obligation of RxElite, Inc. A significant portion of the net proceeds from the sale will be used by RxElite, Inc. to retire a portion of its long-term debt.

The sale included Holdings' current sales and marketing specialists, as well as key administrative personnel. "This is a positive step for the customers and employees related to the domestic distribution of anesthetic agents," said Earl E. Sullivan, RxElite's CEO. "The remaining RxElite team will continue to focus on growing our FineTech API business and our pipeline of RxElite ANDA filings."

About RxElite, Inc.

RxElite, Inc. is a specialty pharmaceutical company that develops and markets generic prescription drug products in specialty generic markets. RxElite also operates an Israeli subsidiary that manufactures and markets complex active pharmaceutical ingredients and provides research and development services to pharmaceutical companies throughout the world.

Forward-Looking Statements

Statements in this press release that are not statements of historical or current fact constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995, involving known and unknown risks, delays, and uncertainties that may cause RxElite's actual results or performance to differ materially from those expressed or implied by these forward-looking statements. These risks, delays, and uncertainties include, but are not limited to: risks associated with the uncertainty of future financial results, RxElite's ability to successfully integrate the operations of Finetech, the limited diversification of RxElite's product offerings, additional financing requirements, and development of new products, government approval processes, the impact of competitive products or pricing and technological changes. Additional risks and uncertainties are set forth from time to time in RxElite's filings with the United States Securities and Exchange Commission, including its Registration Statement on Form S-1 which was declared effective on June 6, 2008, and its Annual and Quarterly Reports, which are available on the Commission's website at www.sec.gov. All forward-looking statements included in this release are made as of the date of this press release, and RxElite assumes no obligation to update any such forward-looking statements.

Contact:

Contact:

Investor Relations:
Toll Free: (800) 414-1901
Fax: (208) 288-1191