
SECURITIES AND EXCHANGE COMMISSION
WASHINGTON, DC 20549

FORM 10-K/A

[X] AMENDMENT 1 TO THE ANNUAL REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

FOR THE YEAR ENDED DECEMBER 31, 2001

[ ] TRANSITION REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934

Commission File Number: 0-13976

AKORN, INC.
(Name of registrant as specified in its charter)

LOUISIANA	72-0717400
(State or other jurisdiction of incorporation or organization)	(IRS Employer Identification No.)

2500 MILLBROOK DRIVE, BUFFALO GROVE, ILLINOIS 60089
(Address of principal executive offices and zip code)

REGISTRANT'S TELEPHONE NUMBER: (847) 279-6100

SECURITIES REGISTERED UNDER SECTION 12(b) OF THE EXCHANGE ACT:
None

SECURITIES REGISTERED UNDER SECTION 12(g) OF THE EXCHANGE ACT:
Common Stock, No Par Value
(Title of Class)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Exchange Act during the preceding 12 months (or for such shorter period that the Registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days. Yes [X] No [ ]

Indicate by check mark if disclosure of delinquent filers in response to Item 405 of Regulation S-K is not contained in this form, and will not be contained, to the best of Registrant's knowledge, in definitive proxy or information statements incorporated by reference in Part III of this Form 10-K or any amendment to this Form 10-K. [ ]

The financial statements included in this Form 10-K are unaudited. See the "Statement in Lieu of Independent Auditors' Report" included in Item 8.

The aggregate market value of the voting stock held by non-affiliates (affiliates being, for these purposes only, directors, executive officers and holders of more than 5% of the Issuer's common stock) of the Issuer as of March 7, 2002 was approximately $47,229,000.

The number of shares of the Issuer's common stock, no par value per share, outstanding as of March 7, 2002 was 19,555,514.

FORWARD-LOOKING STATEMENTS

Certain statements in this Form 10-K constitute "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act. When used in this document, the words "anticipate," "believe," "estimate" and "expect" and similar expressions are generally intended to identify

forward-looking statements. Any forward-looking statements, including statements regarding the intent, belief or expectations of the Company or its management are not guarantees of future performance. These statements involve risks and uncertainties and actual results may differ materially from those in the forward-looking statements as a result of various factors, including but not limited to:

- the effects of federal, state and other governmental regulation of the Company's business;
- the Company's success in developing, manufacturing and acquiring new products;
- the Company's ability to bring new products to market and the effects of sales of such products on the Company's financial results;
- the Company's working capital requirements;
- the Company's ability to comply with debt covenants;
- the effects of competition from generic pharmaceuticals and from other pharmaceutical companies; and
- other factors referred to in this Form 10-K and the Company's other SEC filings.

See "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors That May Affect Future Results". The Company does not intend to update these forward-looking statements.

We are filing this Annual Report on Form 10-K/A as Amendment No. 1 to our Form 10-K, filed on April 16, 2002 for the purposes of providing the information required by Items 10, 11, 12 and 13 of Part III. For the convenience of the reader, we have restated the Form 10-K in its entirety. The disclosure contained herein speaks as of the date of filing of the Form 10-K.

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PART I

ITEM 1. DESCRIPTION OF BUSINESS

Akorn, Inc. ("Akorn" or the "Company") manufactures and markets diagnostic and therapeutic pharmaceuticals in specialty areas such as ophthalmology, rheumatology, anesthesia and antidotes, among others. The Company also markets ophthalmic surgical instruments and related products. Customers include physicians, optometrists, wholesalers, group purchasing organizations and other pharmaceutical companies. Akorn is a Louisiana corporation founded in 1971 in Abita Springs, Louisiana. In 1997, the Company relocated its headquarters and certain operations to Illinois.

Previous to 2001, the Company evaluated its business as two segments, ophthalmic and injectable. The Company now classifies its operations into three identifiable business segments, ophthalmic, injectable and contract services. These three segments are discussed in greater detail below. For information regarding revenues and gross profit for each of the Company's segments, see Note M to the consolidated financial statements included in Item 8 of this report.

Ophthalmic Segment. The Company markets an extensive line of diagnostic and

therapeutic ophthalmic pharmaceutical products as well surgical instruments and related supplies. Diagnostic products, primarily used in the office setting, include mydriatics and cycloplegics, anesthetics, topical stains, gonioscopic solutions, angiography dyes and others. Therapeutic products, sold primarily to wholesalers and other national account customers, include antibiotics, anti-infectives, steroids, steroid combinations, glaucoma medications, decongestants/antihistamines and anti-edema medications. Surgical products include surgical knives and other surgical instruments, balanced salt solution, post-operative kits, surgical tapes, eye shields, anti-ultraviolet goggles, facial drape supports and other supplies. Non-pharmaceutical products include various artificial tear solutions, preservative-free lubricating ointments, lid cleansers, vitamin supplements and contact lens accessories.

Injectable Segment. The Company markets a line of specialty injectable pharmaceutical products, including anesthesia and products used in the treatment of rheumatoid arthritis and pain management. These products are marketed to wholesalers and other national account customers as well as directly to medical specialists.

Contract Services Segment. The Company provides contract-manufacturing services as well as product research and development services to pharmaceutical and biotechnology companies.

Manufacturing. The Company has two manufacturing facilities located in Decatur, Illinois and Somerset, New Jersey. See "Item 2. Description of Property." The Company manufactures a diverse group of sterile pharmaceutical products, including solutions, ointments and suspensions for its ophthalmic and injectable segments. The Decatur facilities manufacture product for all three of the Company's segments. The Somerset facility manufactures product for the ophthalmic segment. The Company is also in the process of adding freeze-dried (lyophilized) manufacturing capabilities at its Decatur facility. See "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors That May Affect Future Results -- Dependence on Development of Pharmaceutical Products and Manufacturing Capabilities."

Sales and Marketing. While the Company is working to expand its proprietary product base through internal development and, to a lesser extent, acquisitions, the majority of current products are non-proprietary. The Company relies on its efforts in marketing, distribution, development and low cost manufacturing to maintain and increase market share.

The ophthalmic segment uses a three-tiered sales effort. Outside sales representatives sell directly to physicians and group practices. In-house sales (telemarketing) and customer service (catalog sales) sell to optometrists and other customers. A national accounts group sells to wholesalers, retail chains and other group purchasing organizations. This national accounts group also markets the Company's injectable pharmaceutical products, which the Company also sells through telemarketing and direct mail activities to individual specialty physicians and hospitals. The contract services segment markets its contract manufacturing services through direct mail, trade shows and direct industry contacts.

The Company records an allowance for estimated product returns. This allowance is reflected as a reduction of account receivable balances. The Company evaluates the allowance balance against actual returns processed. Actual returns processed can vary materially from period to period.

Based on the wholesaler's inventory information, the Company increased its allowance for potential product returns to $2,232,000 at March 31, 2001 from $232,000 at December 31, 2000. The provision for the three months ended March 31, 2001 was $2,559,000. The allowance for potential product returns was $548,000 at December 31, 2001.

Research and Development. As of December 31, 2001, the Company had 17 Abbreviated New Drug Applications ("ANDAs") for generic pharmaceuticals in various stages of development. The Company filed 7 of these ANDAs and received approval for 1 ANDA in 2001. See "Government Regulation." The Company expects to continue to file ANDAs on a regular basis as pharmaceutical products come off patent allowing the Company to compete by marketing generic equivalents. The Food and Drug Administration ("FDA") approved the New Drug Application ("NDA") for Paremyd, on December 5, 2001. This product is to be launched during the first quarter of 2002.

The Company is developing two new indications for ophthalmic products for which it currently anticipates filing NDAs in the future. See Note C to the consolidated financial statements included in Item 8 of this report. One is an indication for Indocyanine Green ("ICG") to treat age related macular degeneration ("AMD"). If the Company's developmental efforts are successful, the Company currently anticipates filing this NDA within the next four years and estimates the market size for this product to be $350 million annually. The Company also anticipates filing an NDA supplement within the next three years for an indication for ICG for intra-ocular staining. The Company estimates the market for this product to be $10 million annually.

Pre-clinical and clinical trials required in connection with the development of pharmaceutical products are performed by contract research organizations under the direction of Company personnel. No assurance can be given as to whether the Company will file these NDAs, or any ANDAs, when anticipated, whether the Company will develop marketable products based on these filings or as to the actual size of the market for any such products. See "Government Regulation" and "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors That May Affect Future Results -- Dependence on Development of Pharmaceutical Products and Manufacturing Capabilities".

The Company also maintains a business development program that identifies potential product acquisition or product licensing candidates. The Company has focused its business development efforts on niche products that complement its existing product lines and that have few or no competitors in the market. In 2000, the Company entered into an exclusive cross marketing agreement with Novadaq Technologies, Inc., for cardiac angiography procedures employing ICG. Under the terms of the agreement, as amended on January 25, 2002, Novadaq will assume all further costs associated with development of the technology. The Company, in consideration of foregoing any share of future net profits, will obtain an equity ownership interest in Novadaq and the right to be the exclusive supplier of ICG for use in Novadaq's diagnostic procedures.

At December 31, 2001, 14 full-time employees of the Company were involved in research and development and product licensing.

Research and development costs are expensed as incurred. Such costs amounted to $2,598,000, $4,132,000 and $2,744,000 for the years ended December 31, 2001, 2000 and 1999, respectively.

Patents and Proprietary Rights. The Company considers the protection of discoveries in connection with its development activities important to its business. The Company intends to seek patent protection in the United States and selected foreign countries where deemed appropriate. As of December 31, 2001, the Company had received four U.S. patents and had four additional U.S. patent applications and one international patent application pending. In February of 2002, the Company was notified by the U.S. Patent and trademark Office that U.S. patent number 6,351,663 titled Methods for diagnosing and treating abnormal vasculature using fluorescent dye angiography and dye enhanced photocoagulation had been issued to the Company. This was one of the four U.S. patents on file as of December 31, 2001. The Company has also

licensed two U.S. patents from the Johns Hopkins University, Applied Physics Laboratory ("JHU/APL") for the development and commercialization of AMD diagnosis and treatment using ICG, which licenses require the Company to conduct clinical trials, which trials are at the Phase I stage and are ongoing. There can be no assurances that these clinical trials will be successful. In addition, a dispute has arisen between the Company and JHU/APL regarding the two patents licensed for AMD and the Company's performance under the terms of the applicable License Agreement. See "Legal Proceedings". The patents held by the Company cover ophthalmic products and processes except for four patents which are methods patents relating to a currently marketed injectable product. These four patents are not currently supporting any product or product indication currently marketed by the Company. There can be no assurance that the Company will obtain U.S. or foreign patents or, if obtained that they will provide substantial protection or be of commercial benefit. The Company also relies upon trademarks, trade secrets, unpatented proprietary know-how and continuing technological innovation to maintain and develop its competitive position. The Company enters into confidentiality agreements with certain of its employees pursuant to which such employees agree to assign to the Company any inventions relating to the Company's business made by them while in the Company's employ. However, there can be no assurance that others may not acquire or independently develop similar

technology or, if patents are not issued with respect to products arising from research, that the Company will be able to maintain information pertinent to such research as proprietary technology or trade secrets. See "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors That May Affect Future Results -- Patents and Proprietary Rights".

Employee Relations. At December 31, 2001, the Company had 310 full-time employees, of whom 292 were employed by Akorn and 18 by its wholly owned subsidiary, Akorn (New Jersey), Inc. The Company enjoys good relations with its employees, none of whom are represented by a collective bargaining agent.

Competition. The marketing and manufacturing of pharmaceutical products is highly competitive, with many established manufacturers, suppliers and distributors actively engaged in all phases of the business. Most of the Company's competitors have substantially greater financial and other resources, including greater sales volume, larger sales forces and greater manufacturing capacity. See "Item 7. Management's Discussion and Analysis of Operations -- Factors That May Affect Future Results -- Competition; Uncertainty of Technological Change."

The companies that compete with the ophthalmic segment include Alcon Laboratories, Inc., Allergan Pharmaceuticals, Inc., Ciba Vision and Bausch & Lomb, Inc. ("B&L"). The ophthalmic segment competes primarily on the basis of price and service. The ophthalmic segment purchases some ophthalmic products from B&L, who is in direct competition with the Company in several markets.

The companies that compete with the injectable segment include both generic and name brand companies such as Abbott Labs, Gensia, American Pharmaceutical Products, Elkin Sinn and American Regent. The injectable segment competes primarily on the basis of price.

Competitors in the contract services segment include Cook Imaging, Chesapeake Biological Laboratories, Ben Venue and Oread Laboratories. The manufacturing of sterile products must be performed under government mandated Good Manufacturing Practices.

Suppliers and Customers. No supplier of products accounted for more than 10% of the Company's purchases in 2001, 2000 or 1999. The Company requires a supply of quality raw materials and components to manufacture and package pharmaceutical products for itself and for third parties with which it has contracted. The principal components of the Company's products are active and inactive pharmaceutical ingredients and certain packaging materials. Many of these components are available from only a single source and, in the case of many of the Company's ANDAs and NDAs, only one supplier of raw materials has been identified. See "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors That May Affect Future Results -- Dependence on Supply of Raw Materials and Components".

No single customer accounted for more than 10% of the Company's revenues during 2001 or 1999. During 2000, the Company realized approximately 12% of its revenues from one customer. This customer is a distributor of the Company's products as well as a distributor of a broad range of health care products for

many companies in the health care sector. This customer is not the end user of the Company's products. If sales to this customer were to diminish or cease, the Company believes that the end users of its products would find no difficulty obtaining the Company's products either directly from the Company or from another distributor. The accounts receivable balance for this customer was approximately 22% of gross trade receivables at December 31, 2000.

Government Regulation. Pharmaceutical manufacturers and distributors are subject to extensive regulation by government agencies, including the FDA, the Drug Enforcement Agency ("DEA"), the Federal Trade Commission ("FTC") and other federal, state and local agencies. The federal Food, Drug and Cosmetic Act (the "FDA Act"), the Controlled Substance Act and other federal statutes and regulations govern or influence the development, testing, manufacture, labeling, storage and promotion of products. The FDA inspects drug manufacturers and storage facilities to determine compliance with its Good Manufacturing Practice regulations, non-compliance with which can result in fines, recall and seizure of products, total or partial suspension of production, refusal to approve new drug applications and criminal prosecution. The FDA also has the authority to

revoke approval of drug products.

With certain exceptions, FDA approval is required before any drug can be manufactured and marketed. New drugs require the filing of an NDA, including clinical studies demonstrating the safety and efficacy of the drug. Generic drugs, which are equivalents of existing brand name drugs, require the filing of an ANDA, which waives the requirement of conducting clinical studies of safety and efficacy. Ordinarily, the filing of an ANDA for generic drugs that contain the same ingredients as drugs already approved for use in the United States requires data showing that the generic formulation is equivalent to the brand name drug and that the product is stable in its formulation. The Company has no control over the time required for the FDA to approve NDA or ANDA filings.

During 2000, the Company received a warning letter as a result of a routine inspection of its Decatur manufacturing facilities. This letter focused on general documentation and cleaning validation issues. The Company was re-inspected in late 2001 and the FDA issued a Form 483 documenting its findings. The Company responded to these findings on January 4, 2002 and is awaiting a response from the FDA. The warning letter prevents the FDA from issuing any approval for new products manufactured at the Decatur facility. The warning letter does not inhibit the Company's ability to continue manufacturing products that are currently approved. The warning letter does not impact the operations at the Somerset facility.

The Company also manufactures and distributes several controlled-drug substances, the distribution and handling of which are regulated by the DEA. Failure to comply with DEA regulations can result in fines or seizure of product. See "Item 7. Management's Discussion and Analysis of Financial Condition and Results of Operations -- Factors That May Affect Future Results -- Government Regulation".

On March 6, 2002, the Company received a letter from the United States Attorney's Office, Central District of Illinois, Springfield, Illinois, advising the Company that the United States Drug Enforcement Administration had referred a matter to that office for a possible civil legal action for alleged violations of the Comprehensive Drug Abuse Prevention Control Act of 1970, 21 U.S.C. sec. 801, et. seq. and regulations promulgated under the Act. The Company is cooperating fully with the government and anticipates that any action under this matter will not have a material impact on its financial statements. See "Legal Proceedings".

The Company does not anticipate any material adverse effect from compliance with federal, state and local provisions that have been enacted or adopted regulating the discharge of materials into the environment, or otherwise relating to the protection of the environment.

ITEM 2. DESCRIPTION OF PROPERTIES

Since August 1998, the Company's headquarters and certain administrative offices, as well as a finished goods warehouse, have been located in leased space at 2500 Millbrook Drive, Buffalo Grove, Illinois. The Company leased approximately 24,000 square feet until June 2000 at which time it expanded to the current occupied space of approximately 48,000 square feet. From May 1997 to August 1998, the Company's headquarters and ophthalmic division offices were located in approximately 11,000 square feet of leased space

in Lincolnshire, Illinois. The Company sub-lets portions of the Lincolnshire space. The Company's former headquarters, consisting of approximately 30,000 square feet located on ten acres of land in Abita Springs, Louisiana, was sold in February 1999.

The Company owns a 76,000 square foot facility located on 15 acres of land in Decatur, Illinois. This facility is currently used for packaging, distribution, warehousing and office space. In addition, the Company owns a 55,000 square-foot manufacturing facility in Decatur, Illinois. The Decatur facilities support all three of the Company's segments. The Company leases approximately 7,000 square feet of office and warehousing space in San Clemente, California, formerly used as a sales office to support the Injectable segment. The Company successfully sublet this space through the term of the lease when the San Clemente operations were closed and relocated to Buffalo Grove. The Company's Akorn (New Jersey) subsidiary also leases approximately 40,000 square feet of space in Somerset, New Jersey. This space is used for manufacturing,

research and development and administrative activities related to the ophthalmic segment. The combined space is considered adequate to accommodate growth for the foreseeable future.

ITEM 3. LEGAL PROCEEDINGS

After the close of business on March 27, 2002, the Company received a letter informing it that the staff of the Securities and Exchange Commission's regional office in Denver, Colorado, plans to recommend to the Commission that it bring an enforcement action for injunctive relief against the Company. Based on the letter, the Company believes the recommended action would concern the Company's alleged misstatement, in quarterly and annual Securities and Exchange Commission filing and earnings press releases, of its income for fiscal year 2000 by allegedly failing to reserve for doubtful accounts receivable and overstating its accounts receivable balance. The Company has also learned that certain of its former officers, as well as a current employee have received similar notifications. The Company disagrees with the staff's proposed recommendation and allegations; it has been invited to submit its views as to why an enforcement action should not be brought, and intends to do so. Because the proposed enforcement action relates to matters in a prior fiscal year, it is not anticipated that these proceedings will have any material impact on the Company's Consolidated Balance Sheet as of December 31, 2001 or on the Company's 2002 or future operating results.

The Company is party to a License Agreement with The Johns Hopkins University, Applied Physics Laboratory ("JHU/APL") effective April 26, 2000, and amended effective July 15, 2001 (See Note C). Pursuant to the License Agreement, the Company licensed two patents from JHU/APL for the development and commercialization of a diagnosis and treatment for age-related macular degeneration ("AMD") using Indocyanine Green ("ICG"). A dispute has arisen between the Company and JHU/APL concerning the License Agreement. Specifically, JHU/APL has challenged the Company's performance under the License Agreement and alleged that the Company is in breach of the License Agreement. The Company's has denied JHU/APL's allegations and contends that it has performed in accordance with the terms of the License Agreement. As a result of the dispute, on March 29, 2002, the Company commenced a lawsuit in the U.S. District Court for the Northern District of Illinois, seeking declaratory and other relief against JHU/APL. On Monday, April 1, 2002, the Company and JHU/APL agreed, through counsel, to attempt to negotiate a resolution to the present dispute. If negotiations prove unsuccessful, the Company and JHU/APL will seek to mediate the dispute. Failing that, the litigation would proceed forward. The Company has an intangible asset valued at $2,084,500 recorded as a result of the License Agreement, as amended. Unsuccessful resolution of the dispute could result in a revaluation of this intangible asset.

On March 6, 2002, the Company received a letter from the United States Attorney's Office, Central District of Illinois, Springfield, Illinois, advising the Company that the United States Drug Enforcement Administration had referred a matter to that office for a possible civil legal action for alleged violations of the Comprehensive Drug Abuse Prevention Control Act of 1970, 21 U.S.C. sec. 801, et. seq. and regulations promulgated under the Act. The Company is cooperating fully with the government and anticipates that any action under this matter will not have a material impact on its financial statements.

On August 9, 2001, the Company was served with a Complaint which had been filed on August 8, 2001 in the United States District Court for The Northern District of Illinois, Eastern Division. The suit named the

Company as well as Mr. Floyd Benjamin, the former president and chief executive officer of the Company, and Dr. John N. Kapoor, the Company's current chairman of the board and then interim chief executive officer as defendants. The suit, which was filed by Michelle Golumbski, individually, and on behalf of all others similarly situated, alleged various violations of the federal securities laws in connection with the Company's public statements and filings with the Securities and Exchange Commission during the period from February 20, 2001 through May 22, 2001. The plaintiff subsequently voluntarily dismissed her claims against Akorn, Inc., Mr. Floyd Benjamin and Dr. John N. Kapoor, and, in exchange for the Company's consent to this voluntary dismissal, also provided, through counsel, a written statement that the plaintiff would not reassert her claims against any of the defendants in any subsequent actions. The Company did not provide the plaintiff with any compensation in consideration for this voluntary dismissal.

On April 4, 2001, the International Court of Arbitration (the "ICA") of the International Chamber of Commerce notified the Company that Novadaq Technologies, Inc. ("Novadaq") had filed a Request for Arbitration with the ICA on April 2, 2001. Akorn and Novadaq had previously entered into an Exclusive Cross-Marketing Agreement dated July 12, 2000 (the "Agreement"), providing for their joint development and marketing of certain devices and procedures for use in fluorescene angiography (the "Products"). Akorn's drug indocyanine green ("ICG") would be used as part of the angiographic procedure. The United States Food and Drug Administration ("FDA") had requested that the parties undertake clinical studies prior to obtaining FDA approval. In its Request for Arbitration, Novadaq asserted that under the terms of the Agreement, Akorn should be responsible for the costs of performing the requested clinical trials, which were estimated to cost approximately $4,400,000. Alternatively, Novadaq sought a declaration that the Agreement should be terminated as a result of Akorn's alleged breach. Finally, in either event, Novadaq sought unspecified damages as a result of the alleged failure or delay on Akorn's part in performing its obligations under the Agreement. In its response, Akorn denied Novadaq's allegations and alleged that Novadaq had breached the agreement. On January 25, 2002, the Company and Novadaq reached a settlement of the dispute. Under terms of a revised agreement entered into as part of the settlement, Novadaq will assume all further costs associated with development of the technology. The Company, in consideration of foregoing any share of future net profits, obtained an equity ownership interest in Novadaq and the right to be the exclusive supplier of ICG for use in Novadaq's diagnostic procedures. In addition, Antonio R. Pera, Akorn's President and Chief Operating Officer, was named to Novadaq's Board of Directors. In conjunction with the revised agreement, Novadaq and the Company each withdrew their respective arbitration proceedings.

The Company is a party in legal proceedings and potential claims arising in the ordinary course of its business. The amount, if any, of ultimate liability with respect to such matters cannot be determined. Despite the inherent uncertainties of litigation, management of the Company at this time does not believe that such proceedings will have a material adverse impact on the financial condition, results of operations, or cash flows of the Company.

ITEM 4. SUBMISSION OF MATTERS TO A VOTE OF SECURITY HOLDERS

No matters were submitted to a vote of security holders during the quarter ended December 31, 2001.

PART II

ITEM 5. MARKET FOR COMMON EQUITY AND RELATED STOCKHOLDER MATTERS

The Company's Common Stock is traded on the NASDAQ National Market under the symbol AKRN. On March 7, 2002, there were approximately 615 holders of record of the Company's Common Stock. This number does not include shareholders for which shares are held in a 'nominee' or 'street' name. The closing price of the Company's Common Stock on March 7, 2002 was $3.94 per share.

High and low bid prices per NASDAQ for the periods indicated were:

	HIGH	LOW
Year Ended December 31, 2001:		
1st Quarter	$ 6.25	$1.97
2nd Quarter	3.25	1.03
3rd Quarter	4.23	2.79
4th Quarter	4.74	2.76
Year Ended December 31, 2000:		
1st Quarter	$13.56	$4.00
2nd Quarter	9.88	5.50
3rd Quarter	12.63	5.00
4th Quarter	11.00	2.16

The Company did not pay cash dividends in 2001, 2000 or 1999 and does not expect to pay dividends on our common stock in the foreseeable future. Moreover,

the Company is currently prohibited by its credit agreement with The Northern Trust Company from making any dividend payment.

ITEM 6. SELECTED CONSOLIDATED FINANCIAL DATA

The following table sets forth selected consolidated financial information for the Company for the years ended December 31, 2001, 2000, 1999, 1998 and 1997. The results for 2001 and 2000 are unaudited. See "Item 8, Statement in Lieu of Independent Auditors' Report."

	YEARS ENDED DECEMBER 31,				
	2001	2000	1999	1998	1997
PER SHARE					
Equity	$ 1.16	$ 2.02	$ 1.85	$ 1.40	$ 1.20
Net income:					
Basic	$ (1.01)	$ 0.11	$ 0.37	$ 0.26	$ 0.11
Diluted	$ (1.01)	$ 0.11	$ 0.36	$ 0.25	$ 0.11
Price: High	$ 6.44	$ 13.63	$ 5.56	$ 9.19	$ 4.50
Low	$ 1.03	$ 3.50	$ 3.50	$ 2.54	$ 1.84
P/E: High	NM	124x	15x	35x	41x
Low	NM	32x	10x	10x	17x
INCOME DATA (000's)					
Revenues	$ 42,248	$ 66,927	$64,632	$ 56,667	$42,323
Gross profit	7,101	28,837	33,477	29,060	18,776
Operating income (loss)	(28,516)	5,789	12,122	9,444	3,165
Interest expense	(3,547)	(2,400)	(1,921)	(1,451)	(497)
Pretax income (loss)	(32,225)	3,506	10,639	7,686	2,844
Income taxes	(12,614)	1,319	3,969	3,039	1,052
Net income (loss)	(19,611)	2,187	6,670	4,647	1,792
Weighted average shares outstanding:					
Basic	19,337	19,030	18,269	17,891	16,614
Diluted	19,337	19,721	18,573	18,766	16,925
BALANCE SHEET (000's)					
Current assets	$ 28,580	$ 42,123	$35,851	$ 24,948	$19,633
Net fixed assets	33,518	34,031	20,812	15,860	12,395
Total assets	84,461	96,518	76,098	61,416	38,715
Current liabilities	52,937	15,768	9,693	13,908	8,612
Long-term obligations	9,066	40,918	32,015	21,228	9,852
Shareholders' equity	22,458	39,832	34,390	26,280	20,251
CASH FLOW DATA (000's)					
From operations	$ (654)	$ 362	$ 131	$ 1,093	$ 64
Dividends paid	--	--	--	--	--
From investing	(4,126)	(17,688)	(6,233)	(13,668)	(6,387)
From financing	9,328	18,108	5,391	10,898	7,356
Change in cash and equivalents	4,548	782	(711)	(1,677)	1,033

NM -- Not meaningful

ITEM 7. MANAGEMENT'S DISCUSSION AND ANALYSIS OF FINANCIAL CONDITION AND RESULTS OF OPERATIONS

Management's discussion and analysis of financial condition and results of operations should be read in conjunction with the accompanying consolidated financial statements. The results for 2001 and 2000 are unaudited. See "Item 8, Statement in Lieu of Independent Auditors' Report."

RESULTS OF OPERATIONS

The Company's revenues are derived from sales of diagnostic and therapeutic pharmaceuticals and surgical instruments by the ophthalmic segment, from sales of diagnostic and therapeutic pharmaceuticals by the injectable segment and from contract services revenue. The following table sets forth the percentage relationships that certain items from the Company's Consolidated Statements of

Income bear to revenues for the years ended December 31, 2001, 2000 and 1999.

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
Revenues			
Ophthalmic	41%	42%	50%
Injectable	23	38	35
Contract Services	36	20	15
Total revenues	100%	100%	100%
Gross profit	17%	43%	52%
Selling, general and administrative expenses	75	26	26
Amortization of intangibles	4	2	3
Research and development expenses	6	6	4
Operating income (loss)	(68)	9	19
Net income (loss)	(46)%	3%	10%

SIGNIFICANT ACCOUNTING POLICIES

The Company accrues an estimate of the difference between the gross sales price of certain products sold to wholesalers and the expected resale prices of such products under contractual arrangements with third parties such as hospitals and group purchasing organizations at the time of sale to the wholesaler. Similarly, the Company records an allowance for rebates related to contracts and other programs with wholesalers. These allowances are reflected as a reduction of account receivable balances. The Company evaluates the allowance balances against actual chargebacks and rebates processed by wholesalers. Actual chargebacks and rebates processed can vary materially from period to period. The Company has an increasing number of contracts and other programs with wholesalers, each incorporating various numbers and types of chargebacks and rebates. The recorded allowance amount reflects the Company's current estimate of the chargeback and rebate amounts wholesalers have earned under these various contracts and programs.

In May 2001, the Company completed an analysis of its March 31, 2001 allowance for chargebacks and rebates and determined that an increase from the allowance of $3,296,000 at December 31, 2000 was necessary. In performing such analysis, the Company utilized recently obtained reports of wholesaler's inventory information, which had not been previously obtained or utilized. Based on the wholesaler's March 31, 2001 inventories and historical chargeback and rebate activity, the Company recorded an allowance of $6,961,000, which resulted in an expense of $12,000,000 for the three months ended March 31, 2001.

During the quarter ended June 30, 2001, the Company further refined its estimates of the chargeback and rebate liability determining that an additional $2,250,000 provision needed to be recorded. This additional increase to the allowance was necessary to reflect the continuing shift of sales to customers who purchase their products through group purchasing organizations and buying groups. The Company had previously seen a much greater level of list price business than is occurring in the current business environment.

The Company records an allowance for estimated product returns. This allowance is reflected as a reduction of account receivable balances. The Company evaluates the allowance balance against actual returns processed. Actual returns processed can vary materially from period to period.

Based on the wholesaler's inventory information, the Company increased its allowance for potential product returns to $2,232,000 at March 31, 2001 from $232,000 at December 31, 2000. The provision for the

three months ended March 31, 2001 was $2,559,000. The allowance for potential product returns was $548,000 at December 31, 2001.

The Company records an allowance for doubtful accounts, which reflects trade receivable balances owed to the Company that are believed to be uncollectible. This allowance is reflected as a reduction of account receivable

balances. The expense related to doubtful accounts is reflected in SG&A expenses.

Based upon its recent unsuccessful efforts to collect past due balances, the Company updated its analysis of potentially uncollectible trade receivable balances and recorded a total bad debt provision for the year of $12,000,000. The Company recorded $7,520,000 and $4,610,00 in the first and second quarter of 2001, respectively and reduced the allowance $130,000 in the fourth quarter of 2001. As a result, and after the effect of balances written off, the allowance for doubtful accounts increased to $3,706,000 at December 31, 2001 from $801,000 at December 31, 2000.

The Company records an allowance for discounts and allowances, which reflects discounts and allowances available to certain customers based on agreed upon terms of sale. This allowance is reflected as a reduction of account receivable balances. The Company evaluates the allowance balance against actual discounts taken.

The Company records an estimate for slow-moving and obsolete inventory based upon recent historical sales by unit. The Company evaluates the potential sales of its products over their remaining lives and estimates the amount that may expire before being sold.

In the fourth quarter of 2000, the Company increased this reserve by $2,700,000 to account for slow moving and obsolete inventory primarily related to products purchased from third parties in 1998 and 1999 for which the original sales forecast overestimated actual demand.

In the first quarter of 2001, based on sales trends and forecasted sales activity by product, the Company increased its allowance for inventory obsolescence to $4,583,000. The provision for the three months ended March 31, 2001 was $1,500,000. The allowance for inventory obsolescence was $1,845,000 at December 31, 2001.

All other increases to the allowances for chargebacks and rebates, returns, doubtful accounts, discounts and allowances and inventory obsolescence occurred as part of the normal recording of product sales.

COMPARISON OF TWELVE MONTHS ENDED DECEMBER 31, 2001 AND 2000

Revenues decreased 36.9% for the year ended December 31, 2001 compared to the prior year. Ophthalmic segment revenues decreased 38.2%, primarily reflecting the decline in sales in the antibiotic, glaucoma and artificial tear product lines. The remaining decline in ophthalmic revenues reflects the effect of increases to the allowance for chargebacks and rebates discussed in Note K to the Consolidated Financial Statements. The allowances for chargebacks and rebates and returns are recorded as reductions to gross sales in computing net sales. Ophthalmic net sales were also negatively impacted by price competition for some of the Company's higher volume product lines. The reduction in sales was due to both declines in unit price as well as volume. Injectable segment revenues decreased 60.9%, primarily due to the increases in the allowances for chargebacks and rebates and returns, discussed in Note K to the Consolidated Financial Statements and a sharp reduction in anesthesia and antidote product sales. The sharp reduction is attributable to excessive wholesaler inventories that were reduced during the year without compensating purchases made by the wholesalers. Contract services revenues increased 10.6% compared to the same period in 2000, primarily due to price increases necessary to cover increasing production costs.

Consolidated gross profit decreased 75.4% for the year, with gross margins decreasing from 43.1% to 16.8%. This reflects the effects of the aforementioned decline in net sales, as well as an increase in the reserve for slow-moving, unsaleable and obsolete inventory items (See Note K). In addition, the Company incurred unfavorable manufacturing variances at both the Somerset, NJ facility and its Decatur, IL facility, which eroded the gross margin percentage. These variances were the result of reduced activity in the plant, primarily caused by the previously discussed reduction in sales that resulted from the wholesaler inventories being reduced without compensating purchases. Management anticipates that manufacturing variances will decrease

in the future as a result of the restructuring program (See Note S) implemented during 2001. The Company is actively looking into increasing its manufacturing

activity at its Somerset facility either through additional product approvals or increasing its third-party manufacturing business.

Selling, general and administrative expenses ("SG&A") increased 81.2% for the year as compared to 2000. The increase primarily reflects a provision for bad debts of $12,000,000. The provision for bad debts in 2000 was $607,000. SG&A expenses also increased due to asset impairment charges of $2,132,000 and restructuring-related charges of $1,117,000 primarily severance and lease costs. Without these charges, SG&A would have decreased 6.4%, reflecting the results of the cost cutting and restructuring efforts employed during the year.

Amortization of intangibles decreased 1.6% for the year, reflecting the exhaustion of certain product intangibles.

Research and Development expenses ("R&D") decreased 37.1%, primarily reflecting a scaling back of research and development activities. The Company is focusing on strategic product niches in which it believes it will be able to add value, primarily in the areas of controlled substances and ophthalmics.

Interest expense increased 47.8% compared to 2000, reflecting higher interest rates on higher average outstanding debt balances (See Note G) partially offset by capitalized interest related to the lyophilized pharmaceuticals manufacturing line expansion.

Net loss for 2001 was $19,611,000, or $1.01 per share, compared to net income of $2,187,000, or $0.11 per share, for the prior year.

COMPARISON OF TWELVE MONTHS ENDED DECEMBER 31, 2000 AND 1999

Revenues increased 3.6% for the year ended December 31, 2000 compared to the prior year. Ophthalmic segment revenues decreased 13.1%, primarily due to sharply reduced sales in generic therapeutic pharmaceuticals for glaucoma and allergies. The reduction in sales was due to both declines in unit price as well as volume. Injectable segment revenues increased 20.3%, primarily due to sales of acquired anesthesia products. Injectable segment sales also benefited from favorable unit prices due to a continuing shortage of certain distributed products and increased contract-manufacturing activity. In both segments, wholesaler-discounting programs unfavorably impacted unit prices. These discounts take the form of chargebacks and rebates. Chargebacks and rebates are discussed further in Note K to the Consolidated Financial Statements. This charge is reflected as a reduction in net sales, primarily ophthalmic.

Consolidated gross profit decreased 13.9% for the year, with gross margins decreasing from 51.8% to 43.1%. Pricing pressure on ophthalmic generic pharmaceuticals as well as the disproportionate increase in contract manufacturing revenues caused the decrease in gross margins. Contract manufacturing activity commands significantly lower margins than sales of the Company's other product lines. Margins in 2000 were also reduced by a $4.0 million ($2.7 million in the fourth quarter) increase in the reserve for slow-moving and obsolete inventory. This increase was primarily related to products purchased from third parties in 1998 and 1999 for which the original sales forecast overestimated demand.

Selling, general and administrative expenses ("SG&A") increased 4.0%, reflecting routine escalations in rental and other contracts, routine compensation increases, and the increase in leased space in the Buffalo Grove facility.

Amortization of intangibles decreased 19.1% for the year, reflecting a patent expiration in the 2nd quarter of 1999.

Research and Development expenses ("R&D") increased 50.6%, primarily reflecting costs associated with Piroxicam clinical trials and beginning stage development of the Company's age-related macular degeneration product.

Interest expense increased 24.9%, reflecting higher interest rates on higher average outstanding debt balances partially offset by capitalized interest related to major capital projects in 2000.

Net income for 2000 was $2,187,000, or $0.11 per diluted share, compared to $6,670,000, or $0.36 per diluted share, for the prior year. The decrease in earnings resulted from the above mentioned items.

FINANCIAL CONDITION AND LIQUIDITY

As of December 31, 2001, the Company had cash and cash equivalents of $5,355,000. The net working capital balance at December 31, 2001 was $(24,357,000) versus $26,355,000 at December 31, 2000 resulting primarily from decreases in receivables and inventory and reclassification of the Company's senior debt obligation as a current liability.

During the year ended December 31, 2001, the Company used $654,000 in cash for operations. Investing activities, which include the purchase of product-related intangible assets as well as equipment required $4,126,000 in cash. Fixed asset purchases related to the lyophilized (freeze-dried) pharmaceuticals manufacturing line expansion accounted for $2,566,000 of the $4,126,000 cash used in investing activities and the Company expects to spend an additional $2,500,000 for such expansion during 2002. Financing activities provided $9,328,000 in cash primarily through the issuance of $5,000,000 subordinated convertible debentures and a $3,250,000 promissory note.

In 1997 the Company entered into a $15 million revolving credit arrangement, increased to $25 million in 1998, and subsequently increased to $45 million in 1999, subject to certain financial covenants and certain liens on the Company's fixed assets. The credit agreement, as amended effective January 1, 2002, requires the Company to maintain certain financial covenants. These covenants include minimum levels of cash receipts, limitations on capital expenditures, a $750,000 per quarter limitation on product returns and required amortization of the loan principal. The agreement also prohibits the Company from declaring any cash dividends on its common stock and identifies certain conditions in which the principal and interest on the credit agreement would become immediately due and payable. These conditions include: (a) an action by the FDA which results in a partial or total suspension of production or shipment of products, (b) failure to invite the FDA in for re-inspection of the Decatur manufacturing facilities by June 1, 2002, (c) failure to make a written response, within 10 days, to the FDA, with a copy to the lender, to any written communication received from the FDA after January 1, 2002 that raises any deficiencies, (d) imposition of fines against the Company in an aggregate amount greater than $250,000, (e) a cessation in public trading of Akorn stock other than a cessation of trading generally in the United States securities market, (f) restatement of or adjustment to the operating results of the Company in an amount greater than $27,000,000, (g) failure to enter into an engagement letter with an investment banker for the underwriting of an offering of equity securities by June 15, 2002, (h) failure to not be party to an engagement letter at any time after June 15, 2002 or (i) experience any material adverse action taken by the FDA, the SEC, the DEA or any other Governmental Authority based on an alleged failure to comply with laws or regulations. Management believes it will be able to comply with the covenants during 2002. In the event that the Company is not in compliance with the covenants during 2002 and does not negotiate amended covenants and/or obtain a waiver thereto, then the debt holder, at its option, may demand immediate payment of all outstanding amounts due it. The amended credit agreement requires a minimum payment of $5.6 million, which relates to an estimated federal tax refund, with the balance of $39.2 million due June 30, 2002. The estimated $5.6 million tax refund must be remitted within three days of receipt from the Internal Revenue Service. The Company is also obligated to remit any additional federal tax refunds received above the estimated $5.6 million. The current credit facility matures on June 30, 2002 at which point the Company will need to re-negotiate or obtain new financing. Management believes that additional long-term financing will be needed to finance product development or acquisitions. There are no guarantees that such financing will be available or available at an acceptable cost. See Note G to Consolidated Financial Statement for a description of this indebtedness and other indebtedness of the Company.

On July 12, 2001 the Company entered into a $5,000,000 subordinated debt transaction with the John N. Kapoor Trust dtd. 9/20/89 (the "Trust"), the sole trustee and sole beneficiary of which is Dr. John N. Kapoor, the Company's current CEO and Chairman of the Board of Directors. The transaction is evidenced by a Convertible Bridge Loan and Warrant Agreement (the "Trust Agreement") in which the Trust agreed to provide two separate tranches of funding in the amounts of $3,000,000 ("Tranche A" which was received on

July 13) and $2,000,000 ("Tranche B" which was received on August 16). As part of the consideration provided to the Trust for the subordinated debt, the Company issued the Trust two warrants which allow the Trust to purchase

1,000,000 shares of common stock at a price of $2.85 per share and another 667,000 shares of common stock at a price of $2.25 per share. The exercise price for each warrant represented a 25% premium over the share price at the time of the Trust's commitment to provide the subordinated debt.

Under the terms of the Trust Agreement, the subordinated debt will bear interest at prime plus 3%, which is the same rate the Company pays on its senior debt. Interest will not be paid to the Trust, but will instead accrue as required by the terms of a subordination agreement which was entered into between the Trust and the Company's senior lenders. The convertible feature of the Trust Agreement, as amended, allows for conversion of the subordinated debt plus interest into common stock of the Company, at a price of $2.28 per share of common stock for Tranche A and $1.80 per share of common stock for Tranche B.

The Company, in accordance with Accounting Principles Board ("APB") Opinion No. 14, recorded the subordinated debt transaction such that the convertible debt and warrants have been assigned independent values. The fair value of the warrants was estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions: (i) dividend yield of 0%, (ii) expected volatility of 79%, (iii) risk free rate of 4.75%, and (iv) expected life of 5 years. As a result, the Company assigned a value of $1,516,000 to the warrants and recorded this amount as additional paid in capital. The remaining $3,484,000 was recorded as long-term debt. The resultant bond discount, equivalent to the value assigned to the warrants, will be amortized and charged to interest expense over the life of the subordinated debt.

In December 2001, the Company entered into a $3,250,000 five-year loan with NeoPharm, Inc. ("NeoPharm") to fund Akorn's efforts to complete its lyophilization facility located in Decatur, Illinois. Under the terms of the Promissory Note, dated December 20, 2001, interest will accrue at the initial rate of 3.6% and will be reset quarterly based upon NeoPharm's average return on its cash and readily tradable long and short-term securities during the previous calendar quarter. The principal and accrued interest is due and payable on or before maturity on December 20, 2006. The note provides that Akorn will use the proceeds of the loan solely to validate and complete the lyophilization facility located in Decatur, Illinois and to address the issues set forth in the Form 483 and warning letter received from the FDA. The Promissory Note is subordinated to Akorn's senior debt owed to The Northern Trust Company but is senior to Akorn's subordinated debt owed to the Trust. The note was executed in conjunction with a Processing Agreement that provides NeoPharm, Inc. with the option of securing at least 15% of the capacity of Akorn's lyophilization facility each year. Dr. John N. Kapoor, the Company's chairman and chief executive officer is also chairman of NeoPharm and holds a substantial stock position in that company as well as in the Company.

Commensurate with the completion of the Promissory Note between the Company and NeoPharm, the Company entered into an agreement with the Trust, which amended the Trust Agreement. The amendment extended the Trust Agreement to terminate concurrently with the Promissory Note on December 20, 2006. The amendment also made it possible for the Trust to convert the interest accrued on the $3,000,000 tranche into common stock of the Company. Previously, the Trust could only convert the interest accrued on the $2,000,000 tranche. The change related to the convertibility of the interest accrued on the $3,000,000 tranche requires that shareholder approval be received by August 31, 2002.

SELECTED QUARTERLY DATA
In Thousands, Except Per Share Amounts
(Unaudited)

			NET INCOME (LOSS)		
	REVENUES	GROSS PROFIT (LOSS)	AMOUNT	PER SHARE BASIC	PER SHARE DILUTED
Year Ended December 31, 2001:					
1st Quarter	$ 6,076	$(5,783)	$(12,977)	$(0.67)	$(0.67)
2nd Quarter	10,637	2,509	(6,275)	(0.33)	(0.33)
3rd Quarter	12,842	5,013	(479)	(0.02)	(0.02)
4th Quarter	12,693	5,362	120	0.01	0.01
	$42,248	$ 7,101	$(19,611)	$(1.01)	$(1.01)
Year Ended December 31, 2000:					

1st Quarter	$16,644	$ 8,413	$ 1,794	$ 0.10	$ 0.09
2nd Quarter	18,320	9,786	2,184	0.11	0.11
3rd Quarter	16,878	7,096	415	0.02	0.02
4th Quarter	15,085	3,542	(2,206)	(0.11)	(0.11)
	$66,927	$28,837	$ 2,187	$ 0.11	$ 0.11

FACTORS THAT MAY AFFECT FUTURE RESULTS

Financial Risk Factors

A small number of wholesale drug distributors accounts for a large portion of the Company's revenues. In 2001, sales to five wholesale drug distributors accounted for 42% of total gross sales and approximately 47% of gross trade receivables as of December 31, 2001. The loss of one or more of these customers, a change in purchasing patterns, an increase in returns of the Company's products, delays in purchasing products and delays in payment for products by one or more distributors could have a material negative impact on the Company's revenue and results of operations and may lead to a violation of debt covenants.

At December 31, 2001, the Company had total outstanding indebtedness of $53,933,000, or 71% of total capitalization. This significant debt load could limit the Company's operating flexibility as a result of restrictive covenants placed on the Company by its lenders. Further, the current debt levels could require usage of a large portion of the cash flow from operations for debt payments that would reduce the availability of cash flow to fund operations, product acquisitions, expansion of the Company's sales force, facilities improvements and research and development activities. On several past occasions, the Company has been out of compliance with a number of the financial and other covenants contained in the documents, which govern its debt. To date, the Company has been able to either renegotiate the terms of such covenants or obtain waivers of such non-compliance. See "Financial Condition and Liquidity". No assurance can be given, however, that, if the Company was to fail to comply in the future with its existing covenants that the Company's lenders would be willing to either further negotiate the terms of such covenants or waive the Company's compliance with the covenants. Under the terms of the Company's loan documents, the Company's lenders would have the right to declare a default under the loan documents and to thereupon pursue any and all of the remedies available to them under the loan documents, including, but not limited to, foreclosure on substantially all of the Company's assets. While the Company believes that it will be able to fully satisfy all of the terms and conditions set forth in its loan documents, future events could make such performance more difficult or impossible.

The Company may need additional funds to operate and grow its business. The Company may seek additional funds through public and private financing, including equity and debt offerings. Adequate funds through the financial markets or from other sources, may not be available when needed or on terms favorable to the Company or its stockholders. Insufficient funds could cause the Company to delay, scale back, or

abandon some or all of its product acquisition, licensing opportunities, marketing, product development, research and development and manufacturing opportunities.

The Company is party to a License Agreement with The Johns Hopkins University, Applied Physics Laboratory ("JHU/APL") effective April 26, 2000, and amended effective July 15, 2001 (See Note C). A dispute (see "Legal Proceedings") has arisen between the Company and JHU/APL concerning the License Agreement. The Company has an intangible asset valued at $2,084,500 recorded as a result of the License Agreement, as amended. Unsuccessful resolution of the dispute could result in a revaluation of this intangible asset.

Government Regulation

Federal and state statutes and government agencies regulate virtually all aspects of the Company's business. The development, testing, manufacturing, processing, quality, safety, efficacy, packaging, labeling, record-keeping, distribution, storage and advertising of the Company's products, and disposal of waste products arising from such activities, are subject to regulation by one or more federal agencies. These agencies include the Food and Drug Administration ("FDA"), the Drug Enforcement Agency ("DEA"), the Federal Trade Commission

("FTC"), the Consumer Product Safety Commission, the Occupational Safety and Health Administration ("OSHA") and the U.S. Environmental Protection Agency ("EPA"). Similar state and local agencies also regulate these activities. Failure to comply with applicable statutes and government regulations could have a material adverse effect on the Company's business, financial condition and results of operations.

All pharmaceutical manufacturers, including the Company, are subject to regulation by the FDA under the authority of the Federal Food, Drug, and Cosmetic Act ("FDC Act"). Under the FDC Act, the federal government has extensive administrative and judicial enforcement powers over the activities of pharmaceutical manufacturers to ensure compliance with FDA regulations. Those powers include, but are not limited to, the authority to initiate court action to seize unapproved or non-complying products, to enjoin non-complying activities, to halt manufacturing operations that are not in compliance with current good manufacturing practices ("cGMP"), to recall products which present a health risk, and to seek civil monetary and criminal penalties. Other enforcement activities include refusal to approve product applications or the withdrawal of previously approved applications. Any such enforcement activities, including the restriction or prohibition on sales of products marketed by the Company or the halting of manufacturing operations of the Company, could have a material adverse effect on the Company's business, financial condition and results of operations. In addition, product recalls may be issued at the discretion of the Company, the FDA or other government agencies having regulatory authority for pharmaceutical product sales. Recalls may occur due to disputed labeling claims, manufacturing issues, quality defects or other reasons. No assurance can be given that recalls of the Company's pharmaceutical products will not occur in the future. Any product recall could have a material adverse effect on the Company's business, financial condition and results of operations. Further, product recalls, in certain circumstances, could constitute an event of default under the provision of the Company's senior debt.

All "new drugs" must be the subject of an FDA-approved new drug application ("NDA") before they may be marketed in the United States. Certain prescription drugs are not currently required to be the subject of an approved NDA but, rather, may be marketed pursuant to an FDA regulatory enforcement policy permitting continued marketing of those drugs until the FDA determines whether they are safe and effective. All generic equivalents to previously approved drugs or new dosage forms of existing drugs must be the subject of an FDA-approved abbreviated new drug application ("ANDA") before they may be marketed in the United States. The FDA has the authority to withdraw existing NDA and ANDA approvals and to review the regulatory status of products marketed under the enforcement policy. The FDA may require an approved NDA or ANDA for any drug product marketed under the enforcement policy if new information reveals questions about the drug's safety or efficacy. All drugs must be manufactured in conformity with cGMP and drugs subject to an approved NDA or ANDA must be manufactured, processed, packaged, held, and labeled in accordance with information contained in the NDA or ANDA.

The Company and its third-party manufacturers are subject to periodic inspection by the FDA to assure such compliance. The FDA imposes additional stringent requirements on the manufacture of sterile pharmaceutical products to ensure the sterilization processes and related control procedures consistently produce a sterile product. Additional sterile manufacturing requirements include the submission for expert review of detailed documentation for sterilization process validation in drug applications beyond those required for general manufacturing process validation. Various sterilization process requirements are the subject of detailed FDA guidelines, including requirements for the maintenance of microbiological control and quality stability. Pharmaceutical products must be distributed, sampled and promoted in accordance with FDA requirements. The FDA also regulates drug labeling and the advertising of prescription drugs. A finding by a governmental agency or court that the Company is not in compliance could have a material adverse effect on the Company's business, financial condition and results of operations.

During 2000, the Company received a warning letter as a result of a routine inspection of its Decatur manufacturing facilities. This letter focused on general documentation and cleaning validation issues. The Company was re-inspected in late 2001 and the FDA issued a Form 483 documenting their findings. The Company responded to these findings on January 4, 2002 and is awaiting a response from the FDA. The warning letter prevents the FDA from issuing any approval for new products manufactured at the Decatur facility. The

warning letter does not inhibit the Company's ability to continue manufacturing products that are currently approved. The warning letter does not impact the operations at the Somerset facility.

While the Company believes that all of its current pharmaceuticals are lawfully marketed in the United States under current FDA enforcement policies or have received the requisite agency approvals for manufacture and sale, such marketing authority is subject to withdrawal by the FDA. In addition, modifications or enhancements of approved products are in many circumstances subject to additional FDA approvals which may or may not be granted and which may be subject to a lengthy application process. Any change in the FDA's enforcement policy or any decision by the FDA to require an approved NDA or ANDA for a Company product not currently subject to the approved NDA or ANDA requirements or any delay in the FDA approving an NDA or ANDA for a Company product could have a material adverse effect on the Company's business, financial condition and results of operations.

A number of products marketed by the Company are "grandfathered" drugs that are permitted to be manufactured and marketed without FDA-issued ANDAs or NDAs on the basis of their having been marketed prior to enactment of relevant sections of the FDC Act. The regulatory status of these products is subject to change and/or challenge by the FDA, which could establish new standards and limitations for manufacturing and marketing such products, or challenge the evidence of prior manufacturing and marketing upon which grandfathering status is based. The Company is not aware of any current efforts by the FDA to change the status of any of its "grandfathered" products, but there can be no assurance that such initiatives will not occur in the future. Any such change in the status of the Company's "grandfathered" products could have a material adverse effect on the Company's business, financial condition and results of operations.

The Company also manufactures and sells drugs which are "controlled substances" as defined in the federal Controlled Substances Act and similar state laws, which establishes, among other things, certain licensing, security and record keeping requirements administered by the DEA and similar state agencies, as well as quotas for the manufacture, purchase and sale of controlled substances. The DEA could limit or reduce the amount of controlled substances which the Company is permitted to manufacture and market. The Company has not experienced sanctions or fines for non-compliance with the foregoing regulations, but no assurance can be given that any such sanctions or fines would not have a material adverse effect on the Company's business, financial condition and results of operations.

On March 6, 2002, the Company received a letter from the United States Attorney's Office, Central District of Illinois, Springfield, Illinois, advising the Company that the United States Drug Enforcement Administration had referred a matter to that office for a possible civil legal action for alleged violations of the Comprehensive Drug Abuse Prevention Control Act of 1970, 21 U.S.C. sec. 801, et. seq. and regulations promulgated under the Act. The Company is cooperating fully with the government and anticipates that any action under this matter will not have a material impact on its financial statements.

The Company cannot determine what effect changes in regulations or statutes or legal interpretation, when and if promulgated or enacted, may have on its business in the future. Changes could, among other things, require changes to manufacturing methods, expanded or different labeling, the recall, replacement or discontinuation of certain products, additional record keeping and expanded documentation of the properties of certain products and scientific substantiation. Such changes or new legislation could have a material adverse effect on the Company's business, financial condition and results of operations.

Dependence on Development of Pharmaceutical Products and Manufacturing Capabilities

The Company's strategy for growth is dependent upon its ability to develop products that can be promoted through current marketing and distributions channels and, when appropriate, the enhancement of such marketing and distribution channels. The Company currently has 17 ANDAs in various stages of development and anticipates filing two NDAs at some point in the future. See "Item 1. Description of Business -- Research and Development." The Company may not meet its anticipated time schedule for the filing of ANDAs and NDAs or may decide not to pursue ANDAs or NDAs that it has submitted or anticipates submitting. The internal development of new pharmaceutical products by the

Company is dependent upon the research and development capabilities of the Company's personnel and its infrastructure. There can be no assurance that the Company will successfully develop new pharmaceutical products or, if developed, successfully integrate new products into its existing product lines. In addition, there can be no assurance that the Company will receive all necessary approvals from the FDA or that such approvals will not involve delays, which adversely affect the marketing and sale of the Company's products. Until such time as the Company receives clearance from the Form 483 and warning letter received from the FDA, the Company will not receive approval from the FDA to manufacture any new NDA products at its Decatur facility. The Company's failure to develop new products or receive FDA approval of ANDAs or NDAs, or address the issues raised in the Form 483 and warning letter received from the FDA, could have a material adverse effect on the Company's business, financial condition and results of operations. Another part of the Company's growth strategy is to develop the capability to manufacture lyophilized (freeze-dried) pharmaceutical products. While the Company has devoted resources to developing these capabilities, it may not be successful in developing these capabilities, or the Company may not realize the anticipated benefits from developing these capabilities.

Generic Substitution

The Company's branded pharmaceutical products are subject to competition from generic equivalents and alternative therapies. Generic pharmaceuticals are the chemical and therapeutic equivalents of brand-name pharmaceuticals and represent an increasing proportion of pharmaceuticals dispensed in the United States. There is no proprietary protection for most of the branded pharmaceutical products sold by the Company and generic and other substitutes for most of its branded pharmaceutical products are sold by other pharmaceutical companies. In addition, governmental and cost-containment pressures regarding the dispensing of generic equivalents will likely result in generic substitution and competition generally for the Company's branded pharmaceutical products. Although the Company attempts to mitigate the effect of this substitution through, among other things, creation of strong brand-name recognition and product-line extensions for its branded pharmaceutical products, there can be no assurance that the Company will be successful in these efforts. Increased competition in the sale of generic pharmaceutical products could have a material adverse effect on the Company's business, financial condition and results of operations. Generic substitution is regulated by the federal and state governments, as is reimbursement for generic drug dispensing. There can be no assurance that substitution will be permitted for newly approved generic drugs or that such products will be subject to government reimbursement.

Dependence on Generic and Off-Patent Pharmaceutical Products

The success of the Company depends, in part, on its ability to anticipate which branded pharmaceuticals are about to come off patent and thus permit the Company to develop, manufacture and market equivalent generic pharmaceutical products. Generic pharmaceuticals must meet the same quality standards as branded

pharmaceuticals, even though these equivalent pharmaceuticals are sold at prices that are significantly lower than that of branded pharmaceuticals. In addition, generic products that third parties develop may render the Company's generic products noncompetitive or obsolete. Although the Company has successfully brought generic pharmaceutical products to market in a timely manner in the past, there can be no assurance that the Company will be able to consistently bring these products to market quickly and efficiently in the future. An increase in competition in the sale of generic pharmaceutical products or the Company's failure to bring such products to market before its competitors could have a material adverse effect on the Company's business, financial condition and results of operations.

Risks and Expense of Legal Proceedings

The Company is currently involved in several pending or threatened legal actions with both private parties and certain government agencies. See "Legal Proceedings". While the Company believes that its positions in these various matters are meritorious, to the extent that the Company's personnel must spend time and the Company must expend resources to pursue or contest these various matters, or any additional matters that may be asserted from the time to time in the future, this represents time and money that is not available for other

actions that the Company might otherwise pursue which could be beneficial to the Company's future. In addition, to the extent that the Company is unsuccessful in any legal proceedings, the consequences could have a negative impact on the Company or its operations. These consequences could include, but not be limited to, fines, penalties, injunctions, the loss of patent or other rights, the need to write down or off the value of assets (which could negatively impact the Company's earnings) and a wide variety of other potential remedies or actions that could be taken against the Company. While the Company will continue to vigorously pursue its rights in all such matters, no assurance can be given that the Company will be successful in any of these proceedings or, even if successful, that the Company would be able to recoup any of the moneys expended in pursuing such matters.

Competition; Uncertainty of Technological Change

The Company competes with other pharmaceutical companies, including major pharmaceutical companies with financial resources substantially greater than those of the Company, in developing, acquiring, manufacturing and marketing pharmaceutical products. The selling prices of pharmaceutical products typically decline as competition increases. Further, other products now in use, under development or acquired by other pharmaceutical companies, may be more effective or offered at lower prices than the Company's current or future products. The industry is characterized by rapid technological change that may render the Company's products obsolete, and competitors may develop their products more rapidly than the Company. Competitors may also be able to complete the regulatory process sooner, and therefore, may begin to market their products in advance of the Company's products. The Company believes that competition in sales of its products is based primarily on price, service, availability and product efficacy. There can be no assurance that: (i) the Company will be able to develop or acquire commercially attractive pharmaceutical products; (ii) additional competitors will not enter the market; or (iii) competition from other pharmaceutical companies will not have a material adverse effect on the Company's business, financial condition and results of operations.

Dependence on Supply of Raw Materials and Components

The Company requires a supply of quality raw materials and components to manufacture and package pharmaceutical products for itself and for third parties with which it has contracted. The principal components of the Company's products are active and inactive pharmaceutical ingredients and certain packaging materials. Many of these components are available from only a single source and, in the case of many of the Company's ANDAs and NDAs, only one supplier of raw materials has been identified. Because FDA approval of drugs requires manufacturers to specify their proposed suppliers of active ingredients and certain packaging materials in their applications, FDA approval of any new supplier would be required if active ingredients or such packaging materials were no longer available from the specified supplier. The qualification of a new supplier could delay the Company's development and marketing efforts. If for any reason the Company is unable to obtain sufficient quantities of any of the raw materials or components required to

produce and package its products, it may not be able to manufacture its products as planned, which could have a material adverse effect on the Company's business, financial condition and results of operations.

Dependence on Third-Party Manufacturers

The Company derives a significant portion of its revenues from the sale of products manufactured by third parties, including its competitors in some instances. There can be no assurance that the Company's dependence on third parties for the manufacture of such products will not adversely affect the Company's profit margins or its ability to develop and deliver its products on a timely and competitive basis. If for any reason the Company is unable to obtain or retain third-party manufacturers on commercially acceptable terms, it may not be able to distribute certain of its products as planned. No assurance can be made that the manufacturers utilized by the Company will be able to provide the Company with sufficient quantities of its products or that the products supplied to the Company will meet the Company's specifications. Any delays or difficulties with third-party manufacturers could adversely affect the marketing and distribution of certain of the Company's products, which could have a material adverse effect on the Company's business, financial condition and results of operations.

Product Liability

The Company faces exposure to product liability claims in the event that the use of its technologies or products or those it licenses from third parties is alleged to have resulted in adverse effects in users thereof. Receipt of regulatory approval for commercial sale of such products does not mitigate such product liability risks. While the Company has taken, and will continue to take, what it believes are appropriate precautions, there can be no assurance that it will avoid significant product liability exposure. In addition, future product labeling may include disclosure of additional adverse effects, precautions and contraindications, which may adversely impact sales of such products. The Company currently has product liability insurance in the amount of $10.0 million for aggregate annual claims with a $50,000 deductible per incident and a $250,000 aggregate annual deductible. However, there can be no assurance that such insurance coverage will be sufficient to fully cover potential claims. Additionally, there can be no assurance that adequate insurance coverage will be available in the future at acceptable costs, if at all, or that a product liability claim would not have a material adverse effect on the Company's business, financial condition and results of operations.

Acquisition and Licensing of Pharmaceutical Products

The Company may purchase or license pharmaceutical product lines of other pharmaceutical or biotechnology companies. Other companies, including those with substantially greater financial, marketing and other resources, compete with the Company for the right to acquire or license such products. Were the Company to elect to pursue this strategy, its success would depend, in part, on its ability to identify potential products that meet the Company's criteria, including possessing a recognizable brand name or being complementary to the Company's existing product lines. There can be no assurance that the Company would have success in identifying potential product acquisitions or licensing opportunities or that, if identified, it would complete such product acquisitions or obtain such licenses on acceptable terms or that it would obtain the necessary financing, or that it could successfully integrate any acquired or licensed products into its existing product lines. The inability to complete acquisitions of, or obtain licenses for, pharmaceutical products could have a material adverse effect on the Company's business, financial condition and results of operations. Furthermore, there can be no assurance that the Company, once it has obtained rights to a pharmaceutical product and committed to payment terms, will be able to generate sales sufficient to create a profit or otherwise avoid a loss. Any inability to generate such sufficient sales or any subsequent reduction of sales could have a material adverse effect on the Company's business, financial condition and result of operations.

Patents and Proprietary Rights

The patent position of competitors in the pharmaceutical industry generally is highly uncertain, involves complex legal and factual questions, and is the subject of much litigation. There can be no assurance that any patent applications relating to the Company's potential products or processes will result in patents being

issued, or that the resulting patents, if any, will provide protection against competitors who: (i) successfully challenge the Company's patents; (ii) obtain patents that may have an adverse effect on the Company's ability to conduct business; or (iii) are able to circumvent the Company's patent position. It is possible that other parties have conducted or are conducting research and could make discoveries of pharmaceutical formulations or processes that would precede any discoveries made by the Company, which could prevent the Company from obtaining patent protection for these discoveries or marketing products developed therefrom. Consequently, there can be no assurance that others will not independently develop pharmaceutical products similar to or obsoleting those that the Company is planning to develop, or duplicate any of the Company's products. The inability of the Company to obtain patents for its products and processes or the ability of competitors to circumvent or obsolete the Company's patents could have a material adverse effect on the Company's business, financial condition and results of operations.

Exercise of Warrants, Conversion of Subordinated Debt, May have Dilutive Effect

Under terms of a $5,000,000 subordinated debt transaction, which the

Company entered into with the John N. Kapoor trust dtd. 9/20/89 (the "Trust"), the sole trustee and sole beneficiary of which is Dr. John N. Kapoor, the Company's current CEO and Chairman of the Board of Directors, the Trust agreed to provide the Company with $5,000,000 of subordinated debt in two separate tranches of $3,000,000 ("Tranche A") and $2,000,000 ("Tranche B"). In return for providing the subordinated debt, the Trust was granted Warrants to purchase 1,000,000 shares of common stock, at a purchase price of $2.85 per share for Tranche A and 667,000 shares of common stock, at a purchase price of $2.25 per share, for Tranche B. In addition, Tranche A, plus the interest on Tranche A, is convertible into common stock of the Company at a price of $2.28 per share, and Tranche B, plus the interest on Tranche B, is convertible into common stock of the Company at a price of $1.80 per share. If the price per share of the Company's common stock at the time of exercise of the Warrants or conversion of the subordinated debt is in excess of the various Warrant exercise or conversion prices, exercise of the Warrants and conversion of the subordinated debt would have a dilutive effect on the Company's common stock. The amount of such dilution, however, cannot currently be determined as it would depend on the amount disparity between the stock price and the price at which the warrants were exercised or the subordinated debt was converted at the time of exercise or conversion.

Need to Attract and Retain Key Personnel in Highly Competitive Marketplace

The Company's performance depends, to a large extent, on the continued service of its key research and development personnel, other technical employees, managers and sales personnel and its ability to continue to attract and retain such personnel. Competition for such personnel is intense, particularly for highly motivated and experienced research and development and other technical personnel. The Company is facing increasing competition from companies with greater financial resources for such personnel. There can be no assurance that the Company will be able to attract and retain sufficient numbers of highly-skilled personnel in the future, and the inability to do so could have a material adverse effect on the Company's business, operating results and financial condition and results of operations.

Dependence on Key Executive Officers

The Company's success will depend, in part, on its ability to attract and retain key executive officers. The inability to find or the loss of one or more of the Company's key executive officers could have a material adverse effect on the Company's business, financial condition and results of operations.

Quarterly Fluctuation of Results; Possible Volatility of Stock Price

The Company's results of operations may vary from quarter to quarter due to a variety of factors including the timing of the development and marketing of new pharmaceutical products, the failure to develop such products, delays in obtaining government approvals, including FDA approval of NDAs or ANDAs for Company products, expenditures to comply with governmental requirements for manufacturing facilities, expenditures incurred to acquire and promote pharmaceutical products, changes in the Company's customer base, a customer's termination of a substantial account, the availability and cost of raw materials, interruptions

in supply by third-party manufacturers, the introduction of new products or technological innovations by the Company's competitors, loss of key personnel, changes in the mix of products sold by the Company, changes in sales and marketing expenditures, competitive pricing pressures and the Company's ability to meet its financial covenants. There can be no assurance that the Company will be successful in maintaining or improving its profitability or avoiding losses in any future period. Such fluctuations may result in volatility in the price of the Company's Common Stock.

Relationships with Other Entities; Conflicts of Interest

Mr. John N. Kapoor, Ph.D., the Company's Chairman of the Board and Chief Executive Officer is affiliated with EJ Financial Enterprises, Inc., a health care consulting investment company ("EJ Financial"). EJ Financial is involved in the management of health care companies in various fields, and Dr. Kapoor is involved in various capacities with the management and operation of these companies. The John N. Kapoor Trust, the beneficiary and sole trustee of which is Dr. Kapoor, is a principal shareholder of each of these companies. As a result, Dr. Kapoor does not devote his full time to the business of the Company.

Although such companies do not currently compete directly with the Company, certain companies with which EJ Financial is involved are in the pharmaceutical business. Discoveries made by one or more of these companies could render the Company's products less competitive or obsolete. In addition, one of these companies, NeoPharm, Inc. of which Dr. Kapoor is Chairman and a major stockholder, recently entered into a loan agreement with the Company. Further, Dr. Kapoor has loaned the Company $5,000,000 with the result that he has become a major creditor of the Company as well as a major stockholder. See "Financial Condition and Liquidity". Potential conflicts of interest could have a material adverse effect on the Company's business, financial condition and results of operations.

RECENT ACCOUNTING PRONOUNCEMENTS

In June 1998, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 133, "Accounting for Derivatives Instruments and Hedging Activities." SFAS 133 establishes accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. SFAS No. 133, as amended by SFAS No. 137 and No. 138, was effective for the Company's fiscal 2001 financial statements and was adopted by the Company on January 1, 2001. Adoption of these standards did not have a material effect on the Company's financial position or results of operations.

In July 2001, the FASB approved three statements, SFAS 141, "Business Combinations," SFAS 142, "Goodwill and Other Intangible Assets," and SFAS 143, "Accounting for Asset Retirement Obligations."

SFAS 141 supercedes APB Opinion No. 16, "Business Combinations," and eliminates the pooling-of-interests method of accounting for business combinations, thus requiring all business combinations be accounted for using the purchase method. In addition, in applying the purchase method, SFAS 141 changes the criteria for recognizing intangible assets apart from goodwill. The following criteria is to be considered in determining the recognition of the intangible assets: (1) the intangible asset arises from contractual or other legal rights, or (2) the intangible asset is separable or dividable from the acquired entity and capable of being sold, transferred, licensed, rented, or exchanged. The requirements of SFAS 141 are effective for all business combinations completed after June 30, 2001. The adoption of this new standard did not have a material impact on the Company's financial statements.

SFAS 142 supercedes APB Opinion No. 17, "Intangible Assets," and requires goodwill and other intangible assets that have an indefinite useful life to no longer be amortized; however, these assets must be reviewed at least annually for impairment. The Company has adopted SFAS 142 as of January 1, 2002. The Company is currently evaluating the impact of this new standard on the Company's financial statements.

SFAS 143 requires entities to record the fair value of a liability for an asset retirement obligation in the period in which it is incurred. When the liability is initially recorded, the entity capitalizes a cost by increasing the carrying amount of the related long-lived asset. Over time, the liability is accreted to its present value each period, and the capitalized cost is depreciated over the useful life of the related asset. Upon settlement of the

liability, an entity either settles the obligation for its recorded amount or incurs a gain or loss upon settlement. The Company has adopted SFAS 143 as of January 1, 2002. The adoption of this new standard did not have a material impact on the Company's financial statements.

In August 2001, the FASB issued SFAS 144 "Accounting for the Impairment or Disposal of Long-Lived Assets." This statement addresses financial accounting and reporting for the impairment or disposal of long-lived assets. This statement supercedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of." This statement also supercedes the accounting and reporting provisions of APB Opinion No. 30, "Reporting the Results of Operations -- Reporting the Effects of Disposal of a Segment of a Business and Extraordinary, Unusual and Infrequently Occurring Events and Transactions," for the disposal of a segment of a business (as previously defined in that Opinion). SFAS No. 144 is effective January 1, 2002. The adoption of this new standard did not have a material impact on the Company's financial statements.

ITEM 7A. QUANTITATIVE AND QUALITATIVE DISCLOSURES ABOUT MARKET RISK

The Company is subject to market risk associated with changes in interest rates. The Company's interest rate exposure involves three debt instruments. The credit agreement with The Northern Trust Company and the subordinated convertible debentures issued to the John N. Kapoor Trust bear the same interest rate, which fluctuates at Prime plus 300 basis points. The promissory note issued to NeoPharm, Inc. ("NeoPharm") bears interest at an initial rate of 3.6% and will be reset quarterly based upon NeoPharm's average return on its cash and readily tradable long and short-term securities during the previous calendar quarter. All of the Company's remaining long-term debt is at fixed interest rates. The Company believes that reasonably possible near-term changes in interest rates would not have a material effect on the Company's financial position, results of operations and cash flows.

The Company's financial instruments consist mainly of cash, accounts receivable, accounts payable and debt. The carrying amounts of these instruments, except debt, approximate fair value due to their short-term nature. The estimated fair value of the Company's debt instruments is based upon rates currently available to the Company for debt with similar terms and remaining maturities.

ITEM 8. FINANCIAL STATEMENTS AND SUPPLEMENTARY DATA

The following financial statements are included in Part II, Item 8 of this Form 10-K.

STATEMENT IN LIEU OF INDEPENDENT AUDITORS' REPORT

The SEC has informed the Company of a proposed enforcement action (See "Item 3. Legal Proceedings"), which has alleged the Company's accounts receivable were overstated as of December 31, 2000. If the enforcement action is ultimately brought to bear, it is possible that the Company would have to restate its 2000 and 2001 financial statements. Because of this uncertainty, Deloitte & Touche LLP, the Company's auditors, are unwilling to give an opinion on the Company's consolidated financial statements and notes thereto for December 31, 2001 and 2000 and the years then ended until this matter is resolved, and as a result these financial statements and notes are unaudited. However, management believes that, subject to the resolution of the above-mentioned matter, the unaudited consolidated financial statements and notes to consolidated financial statements as of these dates and for these periods contain all the information and necessary adjustments for a fair presentation of these financial statements and footnotes. Because the proposed enforcement action relates to matters in a prior fiscal year, it is not anticipated that these proceedings will have any material impact on the Company's Consolidated Balance Sheet as of December 31, 2001 or on the Company's 2002 or future operating results.

AKORN, INC.

CONSOLIDATED BALANCE SHEETS
(DOLLARS IN THOUSANDS, EXCEPT PAR VALUE DATA)
(UNAUDITED)

	DECEMBER 31,	
	2001	2000
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 5,355	$ 807
Trade accounts receivable (less allowance for uncollectibles of $3,706 and $801 at December 31, 2001 and 2000, respectively)	5,902	24,144
Inventory	8,135	14,058
Deferred income taxes	2,069	2,016
Income taxes recoverable	6,540	--
Prepaid expenses and other assets	579	1,098
TOTAL CURRENT ASSETS	28,580	42,123
OTHER ASSETS		
Intangibles, net	18,485	20,342
Deferred income taxes	3,765	--
Other	113	22
TOTAL OTHER ASSETS	22,363	20,364
PROPERTY, PLANT AND EQUIPMENT, NET	33,518	34,031
TOTAL ASSETS	$84,461	$96,518
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Current installments of long-term debt	$45,072	$ 7,753
Trade accounts payable	3,035	5,900
Income taxes payable	--	556
Accrued compensation	760	854
Accrued expenses and other liabilities	4,070	705
TOTAL CURRENT LIABILITIES	52,937	15,768
Long-term debt	8,861	39,089
Other long-term liabilities	205	--
Deferred income taxes	--	1,829
TOTAL LIABILITIES	62,003	56,686
COMMITMENTS AND CONTINGENCIES (Notes C, H and N)		
SHAREHOLDERS' EQUITY		
Preferred stock, $1.00 par value -- authorized 5,000,000 shares; none issued Common stock, no par value -- authorized 40,000,000 shares; issued and outstanding 19,465,815 and 19,247,299 shares at December 31, 2001 and 2000, respectively	24,884	22,647
Retained (deficit) earnings	(2,426)	17,185
TOTAL SHAREHOLDERS' EQUITY	22,458	39,832
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$84,461	$96,518

See notes to consolidated financial statements.

AKORN, INC.

CONSOLIDATED STATEMENTS OF OPERATIONS
(IN THOUSANDS, EXCEPT PER SHARE DATA)
(UNAUDITED)

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999

Revenues	$ 42,248	$66,927	$64,632
Cost of sales	35,147	38,090	31,155
GROSS PROFIT	7,101	28,837	33,477
Selling, general and administrative expenses	31,525	17,397	16,733
Amortization of intangibles	1,494	1,519	1,878
Research and development expenses	2,598	4,132	2,744
	35,617	23,048	21,355
OPERATING INCOME (LOSS)	(28,516)	5,789	12,122
Interest and other income (expense):			
Interest income	--	--	31
Interest expense	(3,547)	(2,400)	(1,921)
(Loss) gain on sale of fixed assets	(78)	--	275
Other (expense) income, net	(84)	117	132
	(3,709)	(2,283)	(1,483)
INCOME (LOSS) BEFORE INCOME TAXES	(32,225)	3,506	10,639
Income tax (benefit) provision	(12,614)	1,319	3,969
NET INCOME (LOSS)	$(19,611)	$ 2,187	$ 6,670
NET INCOME (LOSS) PER SHARE:			
BASIC	$ (1.01)	$ 0.11	$ 0.37
DILUTED	$ (1.01)	$ 0.11	$ 0.36
WEIGHTED AVERAGE SHARES OUTSTANDING:			
BASIC	19,337	19,030	18,269
DILUTED	19,337	19,721	18,573

See notes to consolidated financial statements.

AKORN, INC.

CONSOLIDATED STATEMENTS OF SHAREHOLDERS' EQUITY
(IN THOUSANDS)
(UNAUDITED)

	COMMON STOCK				
	SHARES OUTSTANDING	AMOUNT	RETAINED EARNINGS/ (DEFICIT)	TREASURY STOCK	TOTAL
Balances at January 1, 1999	18,122	$17,952	$ 8,328	$ --	$ 26,280
Net income	--	--	6,670	--	6,670
Treasury stock received in lieu of cash	(9)	--	--	(35)	(35)
Exercise of stock options	476	1,228	--	--	1,228
Management bonus paid in stock	27	109	--	--	109
Treasury stock reissued	9	(6)	--	35	29
Employee stock purchase plan	26	109	--	--	109
Balances at December 31, 1999	18,651	19,392	14,998	--	34,390
Net income	--	--	2,187	--	2,187
Exercise of stock options	576	3,105	--	--	3,105
Employee stock purchase plan	20	150	--	--	150
Balances at December 31, 2000	19,247	22,647	17,185	--	39,832
Net loss	--	--	(19,611)	--	(19,611)
Warrants issued in connection with convertible debentures	--	1,516	--	--	1,516
Exercise of stock options	175	583	--	--	583
Employee stock purchase plan	44	138	--	--	138
Balances at December 31, 2001	19,466	$24,884	$ (2,426)	$ --	$ 22,458

See notes to consolidated financial statements.

AKORN, INC.

CONSOLIDATED STATEMENTS OF CASH FLOW
(DOLLARS IN THOUSANDS)
(UNAUDITED)

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
OPERATING ACTIVITIES			
Net income (loss)	$(19,611)	$ 2,187	$ 6,670
Adjustments to reconcile net income (loss) to net cash (used in) provided by operating activities:			
Depreciation and amortization	4,286	3,539	3,161
Impairment of long-lived assets	2,132	--	--
Loss (gain) on disposal of fixed assets	78	--	(245)
Stock bonus	--	--	109
Deferred income taxes	(5,647)	(756)	763
Other	--	--	(6)
Changes in operating assets and liabilities:			
Accounts receivable	18,242	(6,449)	(6,992)
Income taxes recoverable	(6,540)	--	--
Inventory, prepaid expenses and other assets	6,351	2,173	(5,213)
Trade accounts payable, accrued expenses and other liabilities	611	718	1,750
Income taxes payable	(556)	(1,050)	134
NET CASH (USED IN) PROVIDED BY OPERATING ACTIVITIES	(654)	362	131
INVESTING ACTIVITIES			
Purchases of property, plant and equipment	(3,626)	(15,239)	(6,157)
Proceeds from disposal of fixed assets	--	--	629
Purchase of product intangibles and product licensing fees	(500)	(2,449)	(705)
NET CASH USED IN INVESTING ACTIVITIES	(4,126)	(17,688)	(6,233)
FINANCING ACTIVITIES			
Proceeds from exercise of stock options	721	3,255	1,337
Repayments of long-term debt	(1,153)	(22,206)	(22,584)
Proceeds from issuance of long-term debt	8,034	37,100	26,800
Proceeds from issuance of stock warrants	1,516	--	--
Amortization of bond discount	210	--	--
Principal payments under capital lease obligations	--	(41)	(162)
NET CASH PROVIDED BY FINANCING ACTIVITIES	9,328	18,108	5,391
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	4,548	782	(711)
CASH AND CASH EQUIVALENTS AT BEGINNING OF YEAR	807	25	736
CASH AND CASH EQUIVALENTS AT END OF YEAR	$ 5,355	$ 807	$ 25

See notes to consolidated financial statements.

AKORN, INC.

NOTES TO CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

NOTE A -- SUMMARY OF SIGNIFICANT ACCOUNTING POLICIES

Consolidation: The accompanying consolidated financial statements include the accounts of Akorn, Inc. and its wholly owned subsidiary, Akorn (New Jersey), Inc. (collectively, the "Company"). Intercompany transactions and balances have been eliminated in consolidation. During 2000, the Company dissolved the

inactive subsidiaries Compass Vision, Inc., Spectrum Scientific Pharmaceuticals, Inc. and Walnut Pharmaceuticals, Inc. The dissolution of these subsidiaries did not have a material impact on the balances and activities of the Company.

Use of Estimates: The preparation of financial statements in conformity with generally accepted accounting principles requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements and the reported amounts of revenues and expenses during the reporting period. Actual results could differ materially from those estimates. Significant estimates and assumptions relate to the allowance for uncollectibles, the allowance for chargebacks and rebates, the reserve for slow-moving and obsolete inventory, the reserve for returned goods, the carrying value of intangible assets and the carrying value of deferred tax assets.

Revenue Recognition: The Company recognizes sales upon the shipment of goods, provided that all obligations of the Company have been fulfilled and collection of the related receivable is probable. Provision is made at the time of sale for estimated product returns. Royalty revenue is recognized when earned and is based on net sales figures that often include deductions for costs of unsaleable returns.

Cash Equivalents: The Company considers all highly liquid investments with a maturity of three months or less, when purchased, to be cash equivalents.

Inventory: Inventory is stated at the lower of cost (average cost method) or market (see Note E). Provision is made for slow-moving, unsalable or obsolete items.

Intangibles: Intangibles consist primarily of product licensing and other such costs that are capitalized and amortized on the straight-line method over the lives of the related license periods or the estimated life of the acquired product, which range from 17 months to 18 years. Accumulated amortization at December 31, 2001 and 2000 was $7,132,000 and $5,954,000, respectively. The Company annually assesses the impairment of intangibles based on several factors, including estimated fair market value and anticipated cash flows.

Property, Plant and Equipment: Property, plant and equipment is stated at cost, less accumulated depreciation. Depreciation is provided using the straight-line method in amounts considered sufficient to amortize the cost of the assets to operations over their estimated service lives. The average estimated service lives of buildings, leasehold improvements, furniture and equipment, and automobiles are approximately 30, 10, 8, and 5 years, respectively.

Allowance for Chargebacks and Rebates: The Company accrues an estimate of the difference between the gross sales price of certain products sold to wholesalers and the expected resale prices of such products under contractual arrangements with third parties, such as hospitals and group purchasing organizations at the time of sale. As part of the Company's sales terms to wholesale customers, it agrees to reimburse wholesalers for such differentials between wholesale prices and contract prices. Because this allowance relates to amounts not yet collected from the wholesalers, this allowance is recorded as a reduction of the account receivable balance. Similarly, the Company records an allowance for rebates related to contracts and other programs with wholesalers. The balance for these allowances was $4,190,000 and $3,296,000 as of December 31, 2001 and 2000, respectively.

Income Taxes: The Company files a consolidated federal income tax return with its subsidiary. Deferred income taxes are provided in the financial statements to account for the tax effects of temporary differences

resulting from reporting revenues and expenses for income tax purposes in periods different from those used for financial reporting purposes. The Company records a valuation allowance to reduce the deferred tax assets to the amount that is more likely than not to be realized.

Fair Value of Financial Instruments: The Company's financial instruments include cash, accounts receivable, accounts payable and term debt. The fair values of cash, accounts receivable and accounts payable approximate fair value because of the short maturity of these instruments. The carrying amounts of the

Company's bank borrowings under its credit facility approximate fair value because the interest rates are reset periodically to reflect current market rates.

Net Income Per Common Share: Basic net income per common share is based upon weighted average common shares outstanding. Diluted net income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect of stock options, warrants and convertible debt using the treasury stock method.

The following table shows basic and diluted earnings per share computations for the years ended December 31, 2001, 2000 and 1999 (in thousands, except per share information):

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
Net income (loss) per share -- basic:			
Net income (loss)	$(19,611)	$ 2,187	$ 6,670
Weighted average number of shares outstanding	19,337	19,030	18,269
Net income (loss) per share -- basic	$ (1.01)	$ 0.11	$ 0.37
Net income (loss) per share -- diluted:			
Net income (loss)	$(19,611)	$ 2,187	$ 6,670
Net income (loss) adjustment for interest on convertible debt	--	--	--
Net income (loss), as adjusted	$(19,611)	$ 2,187	$ 6,670
Weighted average number of shares outstanding	19,337	19,030	18,269
Additional shares assuming conversion of convertible debt and convertible interest on debt(1)	--	--	--
Additional shares assuming conversion of warrants(2)	--	--	--
Additional shares assuming conversion of options(3)	--	691	304
Weighted average number of shares outstanding, as adjusted	19,337	19,721	18,573
Net income (loss) per share -- diluted	$ (1.01)	$ 0.11	$ 0.36

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(1) For fiscal 2001, debt and interest convertible into 2,519 shares of common stock was excluded from the computation of diluted earnings per share, as the inclusion of such shares would be antidilutive.

(2) For fiscal 2001, warrants to purchase 1,667 shares of common stock were excluded from the computation of diluted earnings per share, as the inclusion of such shares would be antidilutive.

(3) For fiscal 2001 and 2000, options to purchase 3,226 and 145 shares of common stock, respectively, were excluded from the computation of diluted earnings per share as the inclusion of such shares would be antidilutive.

NOTE B -- NONCASH TRANSACTIONS

In July 2001, the Company amended a license agreement with The Johns Hopkins University Applied Physics Laboratory (See Note C). As part of that amendment, the Company delivered research and development equipment in lieu of a $100,000 payment. The Company recorded a gain of $51,000 upon transference of the equipment.

NOTE B -- NONCASH TRANSACTIONS -- (CONTINUED)

In August 1999, a former employee exercised options for 23,352 shares of the Company's common stock. The individual tendered approximately 8,800 shares of the Company's outstanding stock as consideration for the option exercise, which was recorded as treasury stock. The net effect of this transaction was to increase common stock and paid in capital by $35,028 and increase treasury stock

by $35,028.

NOTE C -- PRODUCT AND OTHER ACQUISITIONS

In April 2000, the Company entered into a worldwide license agreement with The Johns Hopkins University Applied Physics Laboratory. This license provides the Company exclusive rights to two patents covering the methodology and instrumentation for a method of treating age-related macular degeneration. Upon signing the agreement, the Company made an initial payment under the agreement of $1,484,500. In July 2001, this license agreement was amended such that the Company relinquished the international rights to the two patents in exchange for a reduced financial obligation. The Company retained the exclusive rights in the U.S. Future payments of $600,000 were required under terms of the amendment. As of December 31, 2001, $300,000 remains due under the terms of the agreement and was payable on or before March 31, 2002. The Company did not make the remaining $300,000 payment on or before March 31,2002 and is currently attempting to negotiate a resolution to a dispute that has arisen over the license agreement. See Note T for further discussion.

In March 1999, the Company purchased the Paredrine NDA and trade name from Pharmics for $62,500 in cash. The acquisition cost has been allocated to intangibles and will be amortized over 15 years.

In February 1999, the Company paid $400,000 to Eastman Kodak to license IC Green raw material manufacturing processes. The acquisition cost has been allocated to intangibles and will be amortized over 15 years.

NOTE D -- ALLOWANCE FOR UNCOLLECTIBLES

The activity in the allowance for uncollectibles for the periods indicated is as follows (in thousands):

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
Balance at beginning of year	$ 801	$226	$ 425
Provision for bad debts	12,000	607	161
Specific reversal of doubtful account	--	--	(300)
Accounts written off	(9,095)	(32)	(60)
Balance at end of year	$ 3,706	$801	$ 226

NOTE E -- INVENTORY

The components of inventory are as follows (in thousands):

	DECEMBER 31,	
	2001	2000
Finished goods	$2,906	$ 5,014
Work in process	1,082	3,644
Raw materials and supplies	4,147	5,400
	$8,135	$14,058

Inventory at December 31, 2001 and 2000 is reported net of reserves for slow-moving, unsalable and obsolete items of $1,845,000 and $3,171,000, respectively.

NOTE F -- PROPERTY, PLANT AND EQUIPMENT

Property, plant and equipment consists of the following (in thousands):

	DECEMBER 31,	
	2001	2000
Land	$ 396	$ 396
Buildings and leasehold improvements	8,208	8,204
Furniture and equipment	25,724	21,508
Automobiles	55	55
	34,383	30,163
Accumulated depreciation	(16,440)	(13,697)
	17,943	16,466
Construction in progress	15,575	17,565
	$ 33,518	$ 34,031

Construction in progress represents capital expenditures principally related to the Company's lyophilization project that will enable the Company to perform processes in-house, which are currently being performed by a sub-contractor.

NOTE G -- FINANCING ARRANGEMENTS

The Company's long-term debt consists of (in thousands):

	DECEMBER 31,	
	2001	2000
Credit Agreement with The Northern Trust Company	$44,800	$44,400
Subordinated convertible debentures	5,000	--
Mortgages payable secured by real property located in Decatur, Illinois	2,189	2,442
Promissory note to NeoPharm, Inc.	3,250	--
	55,239	46,842
Less unamortized discount on subordinated convertible debentures	1,306	--
Less current portion	45,072	7,753
Long-term debt	$ 8,861	$39,089

Maturities of debt are as follows (in thousands):

Year ending December 31:	
2002	45,072
2003	293
2004	316
2005	340
2006	8,616
Thereafter	602
Total	$55,239

NOTE G -- FINANCING ARRANGEMENTS -- (CONTINUED)

In December 1997, the Company entered into a $15,000,000 revolving credit agreement with The Northern Trust Company, which was increased to $25,000,000 on June 30, 1998 and to $45,000,000 on December 28, 1999. This Amended and Restated Credit Agreement (the "Credit Agreement") is secured by substantially all of the assets of the Company and its subsidiaries and contains a number or restrictive covenants. The covenants include, among other things, minimum levels of net worth, net income and monthly EBITDA and a minimum borrowing base (as defined) and a limitation on capital expenditures. There were outstanding borrowings of $44,800,000 and $44,400,000 at December 31, 2001 and 2000, respectively. The interest rate as of December 31, 2001 was 7.75%.

On April 16, 2001 the revolving credit agreement was amended (the "2001 Amendment") and included, among other things, extension of the term of the agreement, establishment of a payment schedule, revision of the method by which the interest rate will be determined, and the amendment and addition of certain covenants. The 2001 Amendment also required the Company to obtain subordinated debt of $3 million by May 15, 2001 and waived certain covenant violations through March 31, 2001. The 2001 Amendment required payments throughout 2001 totaling $7.5 million, with the balance of $37.5 million due January 1, 2002. The method used to calculate interest was changed to the prime rate plus 300 basis points. Previously, the interest rate was computed at the federal funds rate or LIBOR plus an applicable percentage, depending on certain financial ratios.

On July 12, 2001 the Company entered into a Forbearance Agreement (the "Agreement") with its senior lenders under which the lenders agreed to forbear from taking action against the Company to enforce their rights under the currently existing Amended and Restated Credit Agreement until January 2, 2002. As part of the Agreement, the Company acknowledged the existence of certain events of default. These events included a default on a $1.3 million principal payment, failure to timely make monthly interest payments due on May 31, 2001 and June 30, 2001 (these interest payments were subsequently made on July 27, 2001) and failure to receive $3.0 million of cash proceeds of subordinated debt by May 15, 2001 (these proceeds were subsequently received on July 13, 2001).

The Company received two extensions, which extended the Agreement to February 1, 2002 and March 15, 2002, respectively. Both of these extensions carried the same reporting requirements and covenants while establishing new cash receipts covenants for the months of January and February in 2002.

On April 12, 2002, in lieu of further extending the Agreement, the Company entered into an amendment to the Credit Agreement (the "2002 Amendment"), effective January 1, 2002. The 2002 Amendment included, among other things, extension of the term of the agreement, establishment of a payment schedule and the amendment and addition of certain covenants. The new covenants include minimum levels of cash receipts, limitations on capital expenditures, a $750,000 per quarter limitation on product returns and required amortization of the loan principal. The agreement also prohibits the Company from declaring any cash dividends on its common stock and identifies certain conditions in which the principal and interest on the credit agreement would become immediately due and payable. These conditions include: (a) an action by the FDA which results in a partial or total suspension of production or shipment of products, (b) failure to invite the FDA in for re-inspection of the Decatur manufacturing facilities by June 1, 2002, (c) failure to make a written response, within 10 days, to the FDA, with a copy to the lender, to any written communication received from the FDA after January 1, 2002 that raises any deficiencies, (d) imposition of fines against the Company in an aggregate amount greater than $250,000, (e) a cessation in public trading of Akorn stock other than a cessation of trading generally in the United States securities market, (f) restatement of or adjustment to the operating results of the Company in an amount greater than $27,000,000, (g) failure to enter into an engagement letter with an investment banker for the underwriting of an offering of equity securities by June 15, 2002, (h) failure to not be party to an engagement letter at any time after June 15, 2002 or (i) experience any material adverse action taken by the FDA, the SEC, the DEA or any other Governmental Authority based on an alleged failure to comply with laws or regulations. Management believes it will be able to comply with the covenants during 2002. In the event that the Company is not in compliance with the covenants during 2002 and does not negotiate amended covenants and/or obtain a waiver thereto,

then the debt holder, at its option, may demand immediate payment of all outstanding amounts due it. The amended credit agreement requires a minimum payment of $5.6 million, which relates to an estimated federal tax refund, with the balance of $39.2 million due June 30, 2002. The estimated $5.6 million tax refund must be remitted within three days of receipt from the Internal Revenue Service. The Company is also obligated to remit any additional federal tax refunds received above the estimated $5.6 million. The current credit facility matures on June 30, 2002.

On July 12, 2001 as required under the terms of the Agreement, the Company entered into a $5,000,000 subordinated debt transaction with the John N. Kapoor Trust dtd. 9/20/89 (the "Trust"), the sole trustee and sole beneficiary of which is Dr. John N. Kapoor, the Company's current CEO and Chairman of the Board of Directors. The transaction is evidenced by a Convertible Bridge Loan and Warrant Agreement (the "Trust Agreement") in which the Trust agreed to provide two separate tranches of funding in the amounts of $3,000,000 ("Tranche A" which was received on July 13) and $2,000,000 ("Tranche B" which was received on August 16). As part of the consideration provided to the Trust for the subordinated debt, the Company issued the Trust two warrants which allow the Trust to purchase 1,000,000 shares of common stock at a price of $2.85 per share and another 667,000 shares of common stock at a price of $2.25 per share. The exercise price for each warrant represented a 25% premium over the share price at the time of the Trust's commitment to provide the subordinated debt.

Under the terms of the Trust Agreement, the subordinated debt will bear interest at prime plus 3%, which is the same rate the Company pays on its senior debt. Interest will not be paid to the Trust, but will instead accrue as required by the terms of a subordination agreement which was entered into between the Trust and the Company's senior lenders. The convertible feature of the Trust Agreement, as amended, allows for conversion of the subordinated debt plus interest into common stock of the Company, at a price of $2.28 per share of common stock for Tranche A and $1.80 per share of common stock for Tranche B.

The Company, in accordance with Accounting Principles Board ("APB") Opinion No. 14, recorded the subordinated debt transaction such that the convertible debt and warrants have been assigned independent values. The fair value of the warrants was estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions: (i) dividend yield of 0%, (ii) expected volatility of 79%, (iii) risk free rate of 4.75%, and (iv) expected life of 5 years. As a result, the Company assigned a value of $1,516,000 to the warrants and recorded this amount as additional paid in capital. The remaining $3,484,000 was recorded as long-term debt. The resultant bond discount, equivalent to the value assigned to the warrants, will be amortized and charged to interest expense over the life of the subordinated debt.

As of December 31, 2001, there was no available credit under the Amended and Restated Credit Agreement. Future working capital needs will be highly dependent upon the Company's ability to improve gross margins, control expenses and collect its past due receivables. Management believes that existing cash, cash flow from operations and the subordinated debt proceeds will be sufficient to meet the cash needs of the business for the next twelve months, but that additional funding will be needed to refund the current bank debt. If available funds, cash generated from operations and subordinated debt proceeds are insufficient to meet immediate liquidity requirements, further financing and/or reductions of existing operations will be required. There are no guarantees that such financing will be available or available on acceptable terms. Further, such additional financing may require the granting of rights, preferences or privileges senior to those rights of the common stock and existing stockholders may experience substantial dilution of their ownership interests. The Company will need to refinance or extend the maturity of the bank credit agreement, as it does not anticipate sufficient cash to make the June 30, 2002 scheduled payment.

In December 2001, the Company entered into a $3,250,000 five-year loan with NeoPharm, Inc. ("NeoPharm") to fund Akorn's efforts to complete its lyophilization facility located in Decatur, Illinois. Under the terms of the Promissory Note, dated December 20, 2001, interest will accrue at the initial rate of 3.6% and will be reset quarterly based upon NeoPharm's average return on its cash and readily tradable long and short-term securities during the previous calendar quarter. The principal and accrued interest is due and

NOTE G -- FINANCING ARRANGEMENTS -- (CONTINUED)

payable on or before maturity on December 20, 2006. The note provides that Akorn will use the proceeds of the loan solely to validate and complete the lyophilization facility located in Decatur, Illinois. The Promissory Note is subordinated to Akorn's senior debt owed to The Northern Trust Company but is senior to Akorn's subordinated debt owed to the Trust. The note was executed in conjunction with a Processing Agreement that provides NeoPharm, Inc. with the option of securing at least 15% of the capacity of Akorn's lyophilization facility each year. Dr. John N. Kapoor, the Company's chairman and chief executive officer is also chairman of NeoPharm and holds a substantial stock position in that company as well as in the Company.

Commensurate with the completion of the Promissory Note between the Company and NeoPharm, the Company entered into an agreement with the Trust, which amended the Trust Agreement. The amendment extended the Trust Agreement to terminate concurrently with the Promissory Note on December 20, 2006. The amendment also made it possible for the Trust to convert the interest accrued on the $3,000,000 tranche into common stock of the Company. Previously, the Trust could only convert the interest accrued on the $2,000,000 tranche. The change related to the convertibility of the interest accrued on the $3,000,000 tranche requires that shareholder approval be received by August 31, 2002.

In June 1998, the Company entered into a $3,000,000 mortgage agreement with Standard Mortgage Investors, LLC of which there were outstanding borrowings of $2,189,000 and $2,442,000 at December 31, 2001 and 2000, respectively. The principal balance is paid over 10 years, with the final payment due in June 2007. The mortgage note bears an interest rate of 7.375% and is secured by the real property located in Decatur, Illinois.

The fair value of the debt obligations approximated the recorded value as of December 31, 2001. The promissory note between the Company and NeoPharm, Inc. earns interest at a rate that is lower than the Company's current borrowing rate with its senior lenders. Accordingly, the computed fair value of the debt, which the Company estimates to be approximately $2,650,000 would be lower than the current carrying value of $3,250,000. However, the Company believes that settlement at any computed fair value less than the current carrying value would not be possible nor prudent due to the nature of the agreement and the purposes for which the debt was secured. The Company is currently using the proceeds of the debt to complete the lyophilization facility at its Decatur location as well as address other necessary capital expenditures.

NOTE H -- LEASING ARRANGEMENTS

The Company leased certain equipment under capital leasing arrangements that expired in 2000. Property, plant and equipment includes the following amounts relating to such capital leases (in thousands):

	DECEMBER 31,	
	2001	2000
Furniture and equipment	$--	$ 806
Less accumulated depreciation	--	(806)
	$--	$ --

Depreciation expense provided on these assets was $109,000 and $157,000 for the years ended December 31, 2000 and 1999, respectively.

The Company leases real and personal property in the normal course of business under various operating leases, including non-cancelable and month-to-month agreements. Payments under these leases were $1,841,000, $1,159,000 and $906,000 for the years ended December 31, 2001, 2000 and 1999, respectively.

NOTE H -- LEASING ARRANGEMENTS -- (CONTINUED)

The following is a schedule, by year, of future minimum rental payments required under non-cancelable operating leases (in thousands):

Years ended December 31,	
2002	$1,749
2003	1,219
2004	1,149
2005	1,145
2006	1,129
2007	1,127
2008	331
Total Minimum Payments Required	$7,849

The Company currently sub-lets portions of its leased space. Rental income under these sub-leases was $56,000, $227,000 and $211,000 in 2001, 2000 and 1999, respectively.

NOTE I -- STOCK OPTIONS AND EMPLOYEE STOCK PURCHASE PLAN

Under the 1988 Incentive Compensation Program (the "Incentive Program") any officer or key employee of the Company is eligible to receive options as designated by the Company's Board of Directors. As of December 31, 2001, 6,500,000 shares of the Company's Common Stock are reserved for issuance under the Incentive Program. The exercise price of the options granted under the Incentive Program may not be less than 50 percent of the fair market value of the shares subject to the option on the date of grant, as determined by the Board of Directors. All options granted under the Incentive Program during the years ended December 31, 2001, 2000 and 1999 have exercise prices equivalent to the market value of the Company's Common Stock on the date of grant. Options granted under the Incentive Program generally vest over a period of three years and expire within a period of five years.

Under the 1991 Stock Option Plan for Directors (the "Directors' Plan") persons elected as directors of the Company are granted nonqualified options at the fair market value of the shares subject to option on the date of the grant. As of December 31, 2001, 500,000 shares of the Company's Common Stock are reserved for issuance under the Directors' Plan. Options granted under the Directors' Plan vest immediately and expire five years from the date of grant.

A summary of the status of the Company's stock options as of December 31, 2001, 2000 and 1999 and changes during the years ended December 31, 2001, 2000 and 1999 is presented below (shares in thousands):

	YEARS ENDED DECEMBER 31,					
	2001		2000		1999	
	SHARES	WEIGHTED AVERAGE EXERCISE PRICE	SHARES	WEIGHTED AVERAGE EXERCISE PRICE	SHARES	WEIGHTED AVERAGE EXERCISE PRICE
Outstanding at beginning of period	1,827	$4.78	1,901	$3.64	1,952	$3.16
Granted	2,039	$3.05	644	$6.80	777	$4.53
Exercised	(175)	$2.48	(576)	$3.14	(478)	$2.71
Expired/Canceled	(465)	$5.40	(142)	$5.30	(350)	$4.19
Outstanding at end of period	3,226	$3.72	1,827	$4.78	1,901	$3.64
Options exercisable at end of period	1,735	$3.92	1,054	$4.08	1,088	$3.19
Options available for future grant	1,660		1,234		1,736	
Weighted average fair value of options granted during the period		$2.02		$5.17		$2.37

NOTE I -- STOCK OPTIONS AND EMPLOYEE STOCK PURCHASE PLAN -- (CONTINUED)

The fair value of each option granted during the year ended December 31, 2001 is estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions: (i) dividend yield of 0%, (ii) expected volatility of 79%, (iii) risk-free interest rate of 4.4% and (iv) expected life of 5 years.

The fair value of each option granted during the year ended December 31, 2000 is estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions: (i) dividend yield of 0%, (ii) expected volatility of 98%, (iii) risk-free interest rate of 5.0% and (iv) expected life of 5 years.

The fair value of each option granted during the year ended December 31, 1999 is estimated on the date of grant using the Black-Scholes option pricing model with the following assumptions: (i) dividend yield of 0%, (ii) expected volatility of 51%, (iii) risk-free interest rate of 6.5% and (iv) expected life of 5 years.

The following table summarizes information about stock options outstanding at December 31, 2001 (shares in thousands):

	OPTIONS OUTSTANDING			OPTIONS EXERCISABLE	
RANGE OF EXERCISE PRICES	NUMBER OUTSTANDING DECEMBER 31, 2001	WEIGHTED AVERAGE REMAINING CONTRACTUAL LIFE	WEIGHTED AVERAGE EXERCISE PRICE	NUMBER EXERCISABLE AT DECEMBER 31, 2001	WEIGHTED AVERAGE EXERCISE PRICE
$1.74 -- $2.05.....	216	3.9 years	$ 2.01	200	$ 2.03
$2.13 -- $2.19.....	173	0.5 years	$ 2.14	173	$ 2.14
$2.25 -- $2.60.....	1,085	4.2 years	$ 2.30	309	$ 2.30
$2.81 -- $2.99.....	64	2.7 years	$ 2.91	38	$ 2.85
$3.00 -- $4.00.....	337	4.3 years	$ 3.42	132	$ 3.56
$4.06 -- $4.82.....	367	1.9 years	$ 4.19	299	$ 4.17
$5.00 -- $5.57.....	568	2.9 years	$ 5.16	334	$ 5.13
$6.06 -- $6.25.....	301	3.1 years	$ 6.24	173	$ 6.25
$7.71 -- $8.38.....	55	2.7 years	$ 7.99	37	$ 8.10
$9.31 -- $9.50.....	50	3.3 years	$ 9.46	35	$ 9.45
$10.06 -- $11.88.....	10	3.7 years	$10.97	5	$10.97
	3,226			1,735	

The Company applies APB Opinion No. 25 and related interpretations in accounting for its plans. Accordingly, no compensation expense has been recognized for its stock option plans.

Had compensation cost for the Company's stock-based compensation plans been determined based on Statement of Financial Accounting Standards ("SFAS") No. 123, the Company's net income and net income per share for the years ended December 31, 2001, 2000 and 1999 would have been the pro forma amounts indicated below (in thousands, except per share amounts):

	YEARS ENDED DECEMBER 31,					
	2001		2000		1999	
	AS REPORTED	PRO FORMA	AS REPORTED	PRO FORMA	AS REPORTED	PRO FORMA
Net income (loss).....	$(19,611)	$(21,365)	$2,187	$ 421	$6,670	$5,939
Net income (loss) per share -- diluted.....	$ (1.01)	$ (1.10)	$ 0.11	$0.02	$ 0.36	$ 0.32

The Akorn, Inc. Employee Stock Purchase Plan permits eligible employees to acquire shares of the Company's common stock through payroll deductions not exceeding 15% of base wages, at a 15% discount from market price. A maximum of 1,000,000 shares of the Company's common stock may be acquired under the terms of the Plan. Purchases of shares issued from treasury stock approximated 7,000 shares during the year ended December 31, 1999. New shares issued under the plan approximated 44,000 in 2001, 20,000 in 2000, and 26,000 in 1999.

NOTE J -- INCOME TAXES

The income tax provision (benefit) consisted of the following (in thousands):

	CURRENT	DEFERRED	TOTAL
Year ended December 31, 2001:			
Federal	$(3,639)	$(6,303)	$ (9,942)
State	(253)	(2,419)	(2,672)
	$(3,891)	$(8,722)	$(12,614)
Year ended December 31, 2000:			
Federal	$ 1,680	$ (629)	$ 1,051
State	395	(127)	268
	$ 2,075	$ (756)	$ 1,319
Year ended December 31, 1999:			
Federal	$ 2,561	$ 636	$ 3,197
State	645	127	772
	$ 3,206	$ 763	$ 3,969

Income tax expense (benefit) differs from the "expected" tax expense (benefit) computed by applying the U.S. Federal corporate income tax rate of 34% to income before income taxes as follows (in thousands):

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
Computed "expected" tax expense (benefit)	$(10,956)	$1,192	$3,618
Change in income taxes resulting from:			
State income taxes, net of federal income tax benefits	(1,597)	177	510
Other, net	(61)	(50)	(159)
Income tax expense (benefit)	$(12,614)	$1,319	$3,969

Deferred tax assets (liabilities) at December 31, 2001 and 2000 include (in thousands):

	DECEMBER 31, 2001	DECEMBER 31, 2000
Other accrued expenses	$ 2,537	$ 1,688
Intangible assets, net	510	545
Property, plant and equipment, net	(2,593)	(2,332)
Net operating loss carry forwards	5,052	--
Other, net	328	286
	$ 5,834	$ 187

The deferred taxes are classified in the accompanying balance sheets as follows (in thousands):

	DECEMBER 31,	DECEMBER 31,

	2001	2000
Deferred tax asset -- current	$2,069	$ 2,016
Deferred tax asset (liability) -- noncurrent	3,765	(1,829)
	$5,834	$ 187

Management concluded that it was more likely than not that all of the net deferred tax assets will be realized through future taxable earnings. Accordingly, no valuation allowance is recorded.

NOTE K -- CHANGES IN ACCOUNTING ESTIMATES

The Company accrues an estimate of the difference between the gross sales price of certain products sold to wholesalers and the expected resale prices of such products under contractual arrangements with third parties such as hospitals and group purchasing organizations at the time of sale to the wholesaler. Similarly, the Company records an allowance for rebates related to contracts and other programs with wholesalers. These allowances are reflected as a reduction of account receivable balances. The Company evaluates the allowance balances against actual chargebacks and rebates processed by wholesalers. Actual chargebacks and rebates processed can vary materially from period to period. The Company has an increasing number of contracts and other programs with wholesalers, each incorporating various numbers and types of chargebacks and rebates. The recorded allowance amount reflects the Company's current estimate of the chargeback and rebate amounts wholesalers have earned under these various contracts and programs.

In May 2001, the Company completed an analysis of its March 31, 2001 allowance for chargebacks and rebates and determined that an increase from the allowance of $3,296,000 at December 31, 2000 was necessary. In performing such analysis, the Company utilized recently obtained reports of wholesaler's inventory information, which had not been previously obtained or utilized. Based on the wholesaler's March 31, 2001 inventories and historical chargeback and rebate activity, the Company recorded an allowance of $6,961,000, which resulted in an expense of $12,000,000 for the three months ended March 31, 2001.

During the quarter ended June 30, 2001, the Company further refined its estimates of the chargeback and rebate liability determining that an additional $2,250,000 provision needed to be recorded. This additional increase to the allowance was necessary to reflect the continuing shift of sales to customers who purchase their products through group purchasing organizations and buying groups. The Company had previously seen a much greater level of list price business than is occurring in the current business environment.

The Company records an allowance for estimated product returns. This allowance is reflected as a reduction of account receivable balances. The Company evaluates the allowance balance against actual returns processed. Actual returns processed can vary materially from period to period.

Based on the wholesaler's inventory information, the Company increased its allowance for potential product returns to $2,232,000 at March 31, 2001 from $232,000 at December 31, 2000. The provision for the three months ended March 31, 2001 was $2,559,000. The allowance for potential product returns was $548,000 at December 31, 2001.

The Company records an allowance for doubtful accounts, which reflects trade receivable balances owed to the Company that are believed to be uncollectible. This allowance is reflected as a reduction of account receivable balances. The expense related to doubtful accounts is reflected in SG&A expenses.

Based upon its recent unsuccessful efforts to collect past due balances, the Company updated its analysis of potentially uncollectible trade receivable balances and recorded a total bad debt provision for the year of $12,000,000. The Company recorded $7,520,000 and $4,610,00 in the first and second quarter of 2001, respectively and reduced the allowance $130,000 in the fourth quarter of 2001. As a result, and after the effect of balances written off, the allowance for doubtful accounts increased to $3,706,000 at December 31, 2001 from $801,000 at December 31, 2000.

The Company records an allowance for discounts and allowances, which reflects discounts and allowances available to certain customers based on agreed upon terms of sale. This allowance is reflected as a reduction of account receivable balances. The Company evaluates the allowance balance against actual discounts taken.

The Company records an estimate for slow-moving and obsolete inventory based upon recent historical sales by unit. The Company evaluates the potential sales of its products over their remaining lives and estimates the amount that may expire before being sold.

In the fourth quarter of 2000, the Company increased this reserve by $2,700,000 to account for slow moving and obsolete inventory primarily related to products purchased from third parties in 1998 and 1999 for which the original sales forecast overestimated actual demand.

NOTE K -- CHANGES IN ACCOUNTING ESTIMATES -- (CONTINUED)

In the first quarter of 2001, based on sales trends and forecasted sales activity by product, the Company increased its allowance for inventory obsolescence to $4,583,000. The provision for the three months ended March 31, 2001 was $1,500,000. The allowance for inventory obsolescence was $1,845,000 at December 31, 2001.

All other increases to the allowances for chargebacks and rebates, returns, doubtful accounts, discounts and allowances and inventory obsolescence occurred as part of the normal recording of product sales.

NOTE L -- RETIREMENT PLAN

All employees who have attained the age of 21 are eligible for participation in the Company's 401(k) Plan. The plan-related expense recognized for the years ended December 31, 2001, 2000 and 1999 totaled $234,000, $285,000 and $220,000, respectively. The employer's matching contribution is a percentage of the amount contributed by each employee and is funded on a current basis.

NOTE M -- INDUSTRY SEGMENT INFORMATION

The Company classifies its operations into three business segments, ophthalmic, injectable and contract services. The ophthalmic segment manufactures, markets and distributes diagnostic and therapeutic pharmaceuticals and surgical instruments and related supplies. The injectable segment manufactures, markets and distributes injectable pharmaceuticals, primarily in niche markets. Selected financial information by industry segment is presented below (in thousands):

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
Revenues			
Ophthalmic	$ 17,443	$28,221	$32,467
Injectable	9,859	25,196	22,736
Contract services	14,946	13,510	9,429
Total revenues	$ 42,248	$66,927	$64,632
Gross profit			
Ophthalmic	$ (245)	$ 9,251	$16,873
Injectable	2,936	16,287	13,346
Contract services	4,410	3,299	3,258
Total gross profit	7,101	28,837	33,477
Operating expenses	35,617	23,048	21,355
Total operating income (loss)	(28,516)	5,789	12,122
Interest and other (expense), net	(3,709)	(2,283)	(1,483)
Income (loss) before income taxes	$(32,225)	$ 3,506	$10,639

	========	=======	=======

The Company does not identify assets by segment for internal purposes.

NOTE N -- COMMITMENTS AND CONTINGENCIES

The Company is a party in legal proceedings and potential claims arising in the ordinary course of its business. See Note G -- Financing Arrangements and Note T -- Subsequent Events. Despite the inherent uncertainties of litigation, management of the Company at this time does not believe that such proceedings will have a material adverse impact on the consolidated financial position, results of operations, or cash flows of the Company.

NOTE O -- SUPPLEMENTAL CASH FLOW INFORMATION (IN THOUSANDS)

	YEARS ENDED DECEMBER 31,		
	2001	2000	1999
Interest and taxes paid:			
Interest (net of amounts capitalized)	$3,308	$2,596	$1,245
Income taxes	38	1,625	2,860
Noncash investing and financing activities:			
Treasury stock received for exercise of stock options	--	--	35
Intangible asset received in exchange for research equipment	100	--	--

NOTE P -- RECENT ACCOUNTING PRONOUNCEMENTS

In June 1998, the Financial Accounting Standards Board ("FASB") issued Statement of Financial Accounting Standards ("SFAS") No. 133, "Accounting for Derivatives Instruments and Hedging Activities." SFAS 133 establishes accounting and reporting standards for derivative instruments, including certain derivative instruments embedded in other contracts, and for hedging activities. SFAS No. 133, as amended by SFAS No. 137 and No. 138, was effective for the Company's fiscal 2001 financial statements and was adopted by the Company on January 1, 2001. Adoption of these standards did not have a material effect on the Company's financial position or results of operations.

In July 2001, the FASB approved three statements, SFAS 141, "Business Combinations," SFAS 142, "Goodwill and Other Intangible Assets," and SFAS 143, "Accounting for Asset Retirement Obligations."

SFAS 141 supercedes APB Opinion No. 16, "Business Combinations," and eliminates the pooling-of-interests method of accounting for business combinations, thus requiring all business combinations be accounted for using the purchase method. In addition, in applying the purchase method, SFAS 141 changes the criteria for recognizing intangible assets apart from goodwill. The following criteria is to be considered in determining the recognition of the intangible assets: (1) the intangible asset arises from contractual or other legal rights, or (2) the intangible asset is separable or dividable from the acquired entity and capable of being sold, transferred, licensed, rented, or exchanged. The requirements of SFAS 141 are effective for all business combinations completed after June 30, 2001. The adoption of this new standard did not have a material impact on the Company's financial statements.

SFAS 142 supercedes APB Opinion No. 17, "Intangible Assets," and requires goodwill and other intangible assets that have an indefinite useful life to no longer be amortized; however, these assets must be reviewed at least annually for impairment. The Company has adopted SFAS 142 as of January 1, 2002. The Company is currently evaluating the impact of this new standard on the Company's financial statements.

SFAS 143 requires entities to record the fair value of a liability for an asset retirement obligation in the period in which it is incurred. When the liability is initially recorded, the entity capitalizes a cost by increasing the carrying amount of the related long-lived asset. Over time, the liability is accreted to its present value each period, and the capitalized cost is

depreciated over the useful life of the related asset. Upon settlement of the liability, an entity either settles the obligation for its recorded amount or incurs a gain or loss upon settlement. The Company has adopted SFAS 143 as of January 1, 2002. The adoption of this new standard did not have a material impact on the Company's financial statements.

In August 2001 the FASB issued SFAS 144 "Accounting for the Impairment or Disposal of Long-Lived Assets." This statement addresses financial accounting and reporting for the impairment or disposal of long-lived assets. This statement supercedes SFAS No. 121, "Accounting for the Impairment of Long-Lived Assets and for Long-Lived Assets to be Disposed Of." This statement also supercedes the accounting and reporting provisions of APB Opinion No. 30, "Reporting the Results of Operations -- Reporting the Effects of Disposal of a Segment of a Business and Extraordinary, Unusual and Infrequently Occurring Events and Transactions," for the disposal of a segment of a business (as previously defined in that Opinion). SFAS No. 144 is effective January 1, 2002. The adoption of this new standard did not have a material impact on the Company's financial statements.

NOTE Q -- CUSTOMER CONCENTRATION

No single customer accounted for more than 10% of the Company's revenues during 2001 or 1999. During 2000, the Company realized approximately 12% of its revenues from one customer. This customer is a distributor of the Company's products as well as a distributor of a broad range of health care products for many companies in the health care sector. This customer is not the end user of the Company's products. If sales to this customer were to diminish or cease, the Company believes that the end users of its products would find no difficulty obtaining the Company's products either directly from the Company or from another distributor. The account receivable balance for this customer was approximately 22% of gross trade receivables at December 31, 2000.

NOTE R -- DISCONTINUED PRODUCTS

In May 2001, the Company decided to no longer sell one of its products due to uncertainty of product availability from a third-party manufacturer, rising manufacturing costs and delays in obtaining FDA approval to manufacture the product in-house. The Company recorded an asset impairment charge of $1,170,000 related to manufacturing equipment specific to the product and an asset impairment charge of $140,000 related to the remaining balance of the product acquisition intangible asset during the first quarter of 2001.

In November 2001, the Company decided to no longer sell one of its products due to unavailability of raw material at a competitive price and declining market share. The Company recorded an asset impairment charge of $725,000 related to the remaining balance of the product acquisition intangible asset during the fourth quarter of 2001.

NOTE S -- RESTRUCTURING CHARGES

During 2001, the Company adopted a restructuring program with aggressive actions to properly size its operations to current business conditions. These actions were designed to reduce costs and improve operating efficiencies. The program included, among other items, severance of employees, plant-closing costs related to the Company's San Clemente, CA sales office and rent for unused facilities under lease in San Clemente and Lincolnshire, IL. The restructuring, affecting all three business segments, reduced the Company's workforce by 50 employees, representing 12.5% of the total workforce. Activities previously executed in San Clemente have been relocated to the Company's headquarters.

The restructuring program costs are included in selling, general and administrative expenses in the accompanying consolidated statement of income and resulted in a charge to operations of approximately $1,117,000 consisting of severance costs of $398,000, lease costs of $625,000 and other costs of $94,000.

At December 31, 2001, the amount remaining in the accruals for the restructuring program was approximately $528,000. Approximately $315,000 of the restructuring accrual will be paid by June 30, 2002 and the remainder will be paid over the lease term, which expires in April 2003.

NOTE T -- SUBSEQUENT EVENTS

On January 25, 2002, the Company and Novadaq Technologies, Inc. ("Novadaq") reached a settlement of a dispute involving the two companies. Under terms of a revised agreement, Novadaq will assume all costs associated with development of certain devices and procedures for use in fluorescene angiography. The Company, in consideration of foregoing any share of future net profits, will obtain an equity ownership interest in Novadaq and the right to be the exclusive supplier of ICG for use in Novadaq's diagnostic procedures. In addition, Antonio R. Pera, Akorn's President and Chief Operating Officer, was named to Novadaq's Board of Directors. In conjunction with the revised agreement, Novadaq and the Company have agreed to withdraw from arbitration proceedings that were currently in process at the time.

On March 21, the Company announced that it had been notified by the U.S. Patent and trademark Office that U.S. patent number 6,352,663 titled Methods for diagnosing and treating abnormal vasculature using fluorescent dye angiography and dye enhanced photocoagulation had been issued to the Company. This was one of the three U.S. patents on file as of December 31, 2001.

NOTE T -- SUBSEQUENT EVENTS -- (CONTINUED)

After the close of business on March 27, 2002, the Company received a letter informing it that the staff of the Securities and Exchange Commission's regional office in Denver, Colorado, plans to recommend to the Commission that it bring an enforcement action for injunctive relief against the Company. Based on the letter, the Company believes the recommended action would concern the Company's alleged misstatement, in quarterly and annual Securities and Exchange Commission filing and earnings press releases, of its income for fiscal year 2000 by allegedly failing to reserve for doubtful accounts receivable and overstating its accounts receivable balance. The Company has also learned that certain of its former officers, as well as a current employee have received similar notifications. The Company disagrees with the staff's proposed recommendation and allegations; it has been invited to submit its views as to why an enforcement action should not be brought, and intends to do so. Because the proposed enforcement action relates to matters in a prior fiscal year, it is not anticipated that these proceedings will have any material impact on the Company's Consolidated Balance Sheet as of December 31, 2001 or on the Company's 2002 or future operating results.

The Company is party to a License Agreement with The Johns Hopkins University, Applied Physics Laboratory ("JHU/APL") effective April 26, 2000, and amended effective July 15, 2001 (See Note C). Pursuant to the License Agreement, the Company licensed two patents from JHU/APL for the development and commercialization of a diagnosis and treatment for age-related macular degeneration ("AMD") using Indocyanine Green ("ICG"). A dispute has arisen between the Company and JHU/APL concerning the License Agreement. Specifically, JHU/APL has challenged the Company's performance under the License Agreement and alleged that the Company is in breach of the License Agreement. The Company's has denied JHU/APL's allegations and contends that it has performed in accordance with the terms of the License Agreement. As a result of the dispute, on March 29, 2002, the Company commenced a lawsuit in the U.S. District Court for the Northern District of Illinois, seeking declaratory and other relief against JHU/APL. On Monday, April 1, 2002, the Company and JHU/APL agreed, through counsel, to attempt to negotiate a resolution to the present dispute. If negotiations prove unsuccessful, the Company and JHU/APL will seek to mediate the dispute. Failing that, the litigation would proceed forward. The Company has an intangible asset valued at $2,084,500 recorded as a result of the License Agreement, as amended. Unsuccessful resolution of the dispute could result in a revaluation of this intangible asset.

On March 6, 2002, the Company received a letter from the United States Attorney's Office, Central District of Illinois, Springfield, Illinois, advising the Company that the United States Drug Enforcement Administration had referred a matter to that office for a possible civil legal action for alleged violations of the Comprehensive Drug Abuse Prevention Control Act of 1970, 21 U.S.C. sec. 801, et. seq. and regulations promulgated under the Act. The Company is cooperating fully with the government and anticipates that any action under this matter will not have a material impact on its financial statements.

ITEM 9. CHANGES IN AND DISAGREEMENTS WITH ACCOUNTANTS ON ACCOUNTING AND FINANCIAL DISCLOSURE

None.

PART III

ITEM 10. DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

DIRECTORS AND EXECUTIVE OFFICERS OF THE REGISTRANT

The following table sets forth the directors and executive officers of the Company as of March 15, 2002. Each officer serves as such at the pleasure of the Board of Directors.

NAME	AGE	POSITION WITH THE COMPANY
John N. Kapoor, Ph.D.	58	Chief Executive Officer, Director, Chairman of the Board
Antonio R. Pera.....	44	President, Chief Operating Officer and Director
Ben J. Pothast.....	40	Vice President, Chief Financial Officer, Secretary and Treasurer
Daniel E. Bruhl, M.D.	59	Director
Doyle S. Gaw.....	70	Director
Jerry N. Ellis.....	64	Director

Dr. Bruhl, Mr. Gaw and Mr. Ellis comprise Akorn's audit committee and Dr. Bruhl and Mr. Gaw comprise Akorn's compensation committee.

John N. Kapoor, Ph.D. Dr. Kapoor has served as Chief Executive Officer of the Company since March 2001. Dr. Kapoor has served as Chairman of the Board of the Company since May 1995 and from December 1991 to January 1993. Dr. Kapoor also served as acting Chairman of the Board of the Company from April 1993 to May 1995 and Chief Executive Officer of the Company from May 1996 to November 1998. Dr. Kapoor serves as Chairman of the Board of Option Care, Inc. (an infusion services and supplies company) and was Chief Executive Officer of Option Care, Inc. from August 1993 to April 1996. Dr. Kapoor is the president of E.J. Financial Enterprises, Inc., (a health care consulting and investment company) and has served as Chairman of the Board of NeoPharm, Inc. (a specialty pharmaceutical company) since July 1990. Dr. Kapoor is a director of First Horizon Pharmaceutical Corporation (a distributor of pharmaceuticals) and of Introgen Therapeutics, Inc. (a gene therapy company).

Antonia R. Pera. Mr. Pera has served as President and Chief Operating Officer of the Company since June 2001. Mr. Pera is also a director of the Company. From September 1992 to June 2001, he was Vice President and General Manager of the Bedford Laboratories Division of Ben Venue Laboratories, Inc. (a manufacturer of injectable drugs), and a subsidiary of Boehringer-Ingelheim Corporation. Mr. Pera held various positions from March 1989 through September 1992 with Anaquest (Ohmeda, Inc.) (a manufacturer of inhalation anesthetics). From July 1985 to March 1989, Mr. Pera held several positions with Lyphomed, Inc. (a parenteral products and injectable drug manufacturer) including two years as General Manager of the AccuPharma Division of that Company. Mr. Pera is also a director of Novadaq Technologies, Inc., a privately held research company.

Ben J. Pothast. Mr. Pothast has served as Vice President, Chief Financial Officer, Secretary and Treasurer of the Company since September 2001. From 1998 to 2001, he was Director of Financial Planning and Analysis of Moore North America (a business form printing company). From 1995 to 1998, Mr. Pothast was Director of Business Planning and Corporate Finance of GATX Corporation (a transportation and logistics company). From 1990 to 1995, he was Manager of Financial Reporting and Analysis for The Perseco Company (a packaging and logistics company). Mr. Pothast began his career at the public accounting firm of Ernst & Young.

Daniel E. Bruhl, M.D. Dr. Bruhl has served as a Director of the Company since 1983. Dr. Bruhl is an ophthalmologist, President of the Surgery Center of Fort Worth and a director of Medsynergies, Inc., (private

ophthalmology practice management company). Dr. Bruhl was a director of Surgical Care Affiliates (outpatient surgery center company) from 1983 to 1996, when it

merged with Healthsouth Corporation.

Doyle S. Gaw. Mr. Gaw has served as a Director of the Company since 1975. Mr. Gaw is a private investor.

Jerry N. Ellis. Mr. Ellis has served as a Director of the Company since 2001. Mr. Ellis is an Adjunct Professor in the Department of Accounting at The University of Iowa. Mr. Ellis was a consultant to Arthur Andersen, LLP from 1994 to 2000 and a Partner at Arthur Andersen in the Dallas, Madrid and Chicago offices from 1973 to 1994. Mr. Ellis is a director of First Horizon Pharmaceutical Corporation (a distributor of pharmaceuticals).

SECTION 16(a) BENEFICIAL OWNERSHIP REPORTING COMPLIANCE

During 2001, Mr. Pothast, an officer of the Company, failed to file timely with the Securities and Exchange Commission one Form 3 to report initial holdings. During 2001, Mr. Gaw, Dr. Bruhl, Dr. Kapoor and Mr. Ellis, all directors of the Company, failed to file timely with the Securities and Exchange Commission one Form 4 to report current transactions, as required by Section 16(a) of the Securities Exchange Act of 1934. All such transactions have been reported on amended statements or annual statements on Form 5.

ITEM 11. EXECUTIVE COMPENSATION

The following table summarizes the compensation paid by the Company for services rendered during the years ended December 31, 2001, 2000 and 1999 to each person who, during 2001, served as the chief executive officer of the Company and to each other executive officer of the Company whose total annual salary and bonus for 2001 exceeded $100,000 (each a "Named Executive Officer").

SUMMARY COMPENSATION TABLE

		ANNUAL COMPENSATION		LONG-TERM COMPENSATION	
NAME AND PRINCIPAL	TIME PERIOD	SALARY	BONUS(2)	SECURITIES UNDERLYING OPTIONS/SARS	ALL OTHER(1) COMPENSATION
John N. Kapoor(3)....	Year ended December 31, 2001	$ 2,083	--	500,000	$ --
Chief Executive	Year ended December 31, 2000	50,000	--	5,000	--
Officer	Year ended December 31, 1999	47,917	--	5,000	--
Antonio R. Pera(4)...	Year ended December 31, 2001	145,176	--	500,000	11,486
President and Chief	Year ended December 31, 2000	--	--	--	--
Operating Officer	Year ended December 31, 1999	--	--	--	--
Floyd Benjamin(5)....	Year ended December 31, 2001	123,477	--	70,000	12,591
	Year ended December 31, 2000	274,205	--	105,000	38,826
	Year ended December 31, 1999	246,184	137,116	305,000	11,700
Harold Koch Jr.(6)...	Year ended December 31, 2001	56,874	--	25,000	113,203
	Year ended December 31, 2000	158,617	--	40,000	11,600
	Year ended December 31, 1999	147,928	36,540	10,000	11,600
Rita J. McConville(7).....	Year ended December 31, 2001	89,162	--	30,000	56,763
	Year ended December 31, 2000	151,716	--	55,000	3,500
	Year ended December 31, 1999	138,600	33,301	30,000	3,333

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(1) Represents contributions to the Company's Savings and Retirement Plan, except as indicated in notes (4), (5), (6) and (7).

(2) Represents bonuses awarded for 1998 and 1999 performance paid in 1999 and 2000, except for Mr. Benjamin, whose 1998 bonus was paid partially in 1998 and partially in 1999 ($55,916). There were no executive officer bonuses awarded for 2000 or 2001.

(3) Dr. Kapoor receives $50,000 annually for his services as Chairman. Amounts due Dr. Kapoor for 2001 were not paid as agreed upon between the Company, Dr. Kapoor and the Company's senior lender.

(4) Mr. Pera became President and COO of the Company on June 4, 2001. His "Other Compensation" for 2001 includes $7,000 for auto allowance and $4,486 for Company sponsored life insurance.

(5) Mr. Benjamin served as Chief Executive Officer from May 3, 1996 to March 21, 2001. His "Other Compensation" for 2001 includes $4,000 for auto allowance, $5,539 for country club membership and $763 for spousal travel. His "Other Compensation" for 2000 and 1999 includes $9,600 auto allowance. His "Other Compensation" for 2000 includes $23,372 for country club membership and $4,104 for spousal travel. Mr. Benjamin's employment with the Company terminated May 30, 2001.

(6) Mr. Koch served as an officer of the Company from May 12, 2000 to April 13, 2001. His "Other Compensation" includes $111,177 severance in 2001, $923 auto allowance in 2001 and $7,200 auto allowance for 2000 and 1999. Mr. Koch's employment with the Company terminated April 13, 2001.

(7) Ms. McConville served as Chief Financial Officer from February 28, 1997 to March 21, 2001. Her "Other Compensation" includes $54,686 severance in 2001. Ms. McConville's employment with the Company terminated July 13, 2001.

OPTION/SAR GRANTS IN LAST FISCAL YEAR

The following table sets forth certain information with respect to stock options granted to each of the Named Executive Officers in the fiscal year ended December 31, 2001, including the potential realizable value over the five-year term of the options, based on assumed rates of stock appreciation of 5% and 10%, compounded annually. These assumed rates of appreciation comply with the rules of the Securities and Exchange Commission and do not represents Akorn's estimate of future stock price. Actual gains, if any, on stock option exercises will be dependent on the future performance of Akorn's common stock.

	INDIVIDUAL GRANTS				POTENTIAL REALIZABLE VALUE AT ASSUMED ANNUAL RATES OF STOCK PRICE APPRECIATION FOR OPTION TERM	
NAME	NUMBER OF SECURITIES UNDERLYING OPTIONS/SARS GRANTED (#)	PERCENT OF TOTAL OPTIONS/SARS GRANTED TO EMPLOYEES IN FISCAL YEAR	EXERCISE OR BASE PRICE ($/SH)	EXPIRATION DATE	5%($)	10%($)
John N. Kapoor.....	500,000(1)	25%	$2.25	3/29/06	$310,817	$686,824
Antonio R. Pera.....	500,000(1)	25%	2.33	6/4/06	321,868	711,244
Floyd Benjamin.....	60,000(1)	3%	5.31	2/1/06	88,023	194,508
	10,000(2)	NM	1.74	5/16/06	4,807	10,623
Harold Koch Jr.....	25,000(1)	1%	5.31	2/1/06	36,676	81,045
Rita J. McConville.....	25,000(1)	1%	5.31	2/1/06	36,676	81,045
	5,000(2)	NM	1.74	5/16/06	2,404	5,311

NM -- Not Meaningful

(1) Issued pursuant to the Amended and Restated 1988 Incentive Compensation Program.

(2) Issued pursuant to the Amended and Restated 1988 Incentive Compensation Program as part of the Company salary reduction program.

AGGREGATED OPTION/SAR EXERCISES IN LAST FISCAL YEAR AND FY-END OPTION/SAR VALUES

			NUMBER OF SECURITIES UNDERLYING UNEXERCISED OPTIONS/SARS AT FY-END(#)	VALUE OF UNEXERCISED IN-THE-MONEY OPTIONS/SARS AT FY-END($)(1)
NAME	SHARES ACQUIRED ON EXERCISE(#)	VALUE REALIZED($)	EXERCISABLE/ UNEXERCISABLE	EXERCISABLE/ UNEXERCISABLE

John N. Kapoor.....	--	--	263,438/375,000	475,698/843,750
Antonio R. Pera.....	--	--	125,000/375,000	291,250/873,750
Floyd Benjamin.....	--	--	430,000/175,000	126,600/8,700
Harold Koch Jr.....	--	--	37,500/40,000	21,875/--
Rita J. McConville (2).....	45,000	49,790	86,250/--	--/--

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(1) Value of Unexercised in-the-Money options calculated using the 12/31/01 closing price of $4.00.

(2) Ms. McConville's exercises were executed after termination of her employment with the Company.

EMPLOYMENT AGREEMENTS

In May 1996 the Company entered into an employment agreement with Mr. Benjamin pursuant to which Mr. Benjamin agreed to serve as Executive Vice President of the Company and President of Taylor Pharmaceuticals Inc. (a subsidiary of the Company) for an annual salary of $200,000, increased annually at the discretion of the Board of Directors, plus bonuses determined by a formula stated in the agreement. The agreement terminated January 1, 1999 upon Mr. Benjamin's appointment as President and CEO of Akorn, Inc.

In May 2001 the Company entered into an employment agreement with Mr. Pera pursuant to which Mr. Pera serves as President and Chief Operating Officer of the Company. The employment agreement provides for an annual salary of $260,000, increased annually at the discretion of the Board of Directors, plus bonuses determined by a formula stated in the agreement. In addition, the employment agreement contains restrictive covenants concerning the use of confidential information, non-competition and non-solicitation of the Company's employees, both during the term of and after termination of Mr. Pera's employment with the Company.

COMPENSATION COMMITTEE INTERLOCKS

Dr. Bruhl and Mr. Gaw, who currently comprise the Compensation Committee, are each independent, non-employee directors of the Company. No executive officer of the Company served as a director or member of the compensation committee of (i) another entity in which one of the executive officers of such entity served on the Company's Compensation Committee, (ii) the board of directors of another entity in which one of the executive officers of such entity served on the Company's Compensation Committee, or (iii) the compensation committee of any other entity in which one of the executive officers of such entity served as a member of the Company's Board of Directors, during the year ended December 31, 2001.

COMPENSATION OF DIRECTORS

For services as Chairman of the Board and as a consultant to the Company, Dr. Kapoor receives a fee of $50,000 per year. Each other director who is not a salaried officer or consultant of the Company receives a fee for his services as a director of $1,000 per regular meeting of the Board of Directors, $500 per telephone meeting and $500 per committee meeting, plus reimbursement of his expenses related to those services.

All directors of the Company participate in the Company's Stock Option Plan for Directors, pursuant to which each director of the Company is granted an option to acquire 5,000 shares of Company common stock on the day after each annual meeting of shareholders at which he is elected to serve as a director. Any director appointed between annual meetings is entitled to receive a pro rata portion of an option to acquire

5,000 shares. The Compensation Committee may, in its sole discretion, grant an option to purchase up to 100,000 shares to a person who is not already a director and who becomes a director at any time; no member of the Compensation Committee is eligible to be granted such an option and any director who has been granted such an option is not permitted to serve on the Compensation Committee for one year after such grant. Options granted under the plan vest immediately and expire five years from the date of grant. Upon joining the Board in 2001, Mr. Ellis was granted an option under the plan for 20,000 shares. The option exercise price for all options granted under the plan is the fair market value of the shares covered by the option at the time of the grant.

COMPENSATION COMMITTEE REPORT

The Compensation Committee of the Board of Directors reviews, analyzes and makes recommendations related to compensation packages for the Company's executive officers, evaluates the performance of the Chief Executive Officer and the Chief Operating Officer and administers the grant of stock options under the Company's Incentive Compensation Program.

The Company's executive compensation policies are designed to (a) provide competitive levels of compensation to attract and retain qualified executives, (b) reward achievements in corporate performance, (c) integrate pay with annual and long-term performance goals and (d) align the interests of executives with the goals of shareholders.

Compensation paid to Company executives consists of salaries, annual cash incentive bonuses and long-term incentive opportunities in the form of stock options.

Salary

Mr. Pera's salary for 2001 was fixed in his employment agreement. Mr. Benjamin's salary for the years ended December 31, 2000 and 1999 and the salary of Ms. McConville for the year ended December 31, 1999 were determined after considering the executive compensation policies noted above, the impact the executive has on the Company, the skills and experience the executive brings to the job, competition in the marketplace for those skills and the potential of the executive in the job. Ms. McConville's salary for 2000 and 2001 and Mr. Koch's salary for 1999, 2000 and 2001 was determined by the Chief Executive Officer. Mr. Benjamin's salary through 1998 was fixed in his employment agreement.

Incentive Bonus

Annual incentive compensation for executive officers during 2001, 2000 and 1999 was based on corporate earnings objectives as well as position-specific performance objectives. Mr. Pera's employment agreement specified the formula under which he was to be awarded incentive bonuses. Mr. Benjamin's employment agreement also specified the formula under which he was to be awarded incentive bonuses. Under those criteria, Mr. Benjamin did earn a bonus for 1998. Mr. Benjamin's 1998 bonus was paid partially in 1998 and partially in 1999. The bonuses awarded to Ms. McConville and Mr. Koch, as noted in the compensation table for 1998 and 1999, and to Mr. Benjamin for 1999, were paid in 1999 and 2000, respectively. There were no performance bonuses granted to executive officers for 2000 or 2001.

Stock Options

The Committee's practice with respect to stock options has been to grant options based upon the attainment of Company performance goals and to vest options based on the passage of time. The option grants noted in the compensation tables include grants upon initial employment and annual grants as well as grants issued under the Stock Option Plan for Directors to those named executive officers that are also directors.

It is the responsibility of the Committee to address the issues raised by tax laws under which certain non-performance based compensation in excess of $1 million per year paid to executives of public companies is non-deductible to the Company and to determine whether any actions with respect to this limit need to be

taken by the Company. It is not anticipated that any executive officer of the Company will receive any compensation in excess of this limit.

SUBMITTED BY THE COMPENSATION COMMITTEE OF THE BOARD OF DIRECTORS

Daniel E. Bruhl,M.D.
Doyle S. Gaw

ITEM 12. SECURITY OWNERSHIP OF CERTAIN BENEFICIAL OWNERS AND MANAGEMENT

As of March 15, 2002, the following persons were directors, nominees, Named

Executive Officers (as defined in "Executive Compensation" above), or others with beneficial ownership of five percent or more of the Company's common stock.. The information set forth below has been determined in accordance with Rule 13d-3 under the Securities Exchange Act of 1934 based upon information furnished to the Company or to the Securities and Exchange Commission by the persons listed. Unless otherwise noted the address of each of the following persons is 2500 Millbrook Drive, Buffalo Grove, Illinois 60089.

BENEFICIAL OWNER	SHARES BENEFICIALLY OWNED	PERCENT OF CLASS
DIRECTORS AND NOMINEES		
John N. Kapoor, Ph.D.	8,809,227(1)	36.64%
Daniel E. Bruhl, M.D.	316,767(2)	1.62%
Doyle S. Gaw	107,860(2)	0.55%
Jerry N. Ellis	20,000(2)	0.10%
Antonio R. Pera	137,500(3)	0.70%
NAMED EXECUTIVE OFFICERS(4)		
Floyd Benjamin(5)	956,667(6)	4.77%
Rita J. McConville(5)	95,178(7)	0.48%
Harold Koch Jr.(5)	46,341	0.24%
Directors and officers as a group (9 persons)	10,514,540(8)	42.33%
OTHER BENEFICIAL OWNERS		
Wellington Management Company(9)	986,200	5.04%
Arjun C. Waney(10)	1,868,900	9.56%

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(1) Of such 8,809,227 shares, (i) 841,000 are owned directly by the John N. Kapoor Trust dated September 20, 1989 (the "Trust") of which Dr. Kapoor is the sole trustee and beneficiary, (ii) 3,395,000 are owned by EJ financial/Akorn Management, L.P. of which Dr. Kapoor is managing general partner, (iii) 25,000 are owned directly by Dr. Kapoor, (iv) 63,600 are owned by a trust, the trustee of which is Dr. Kapoor's wife and the beneficiaries of which are their children, (v) 258,438 are issuable pursuant to options granted by the Company directly to Dr. Kapoor, (vii) 1,667,000 are issuable upon conversion of warrants issued to the John N. Kapoor Trust dated September 20, 1989, (viii) 2,426,900 are issuable upon the conversion of a convertible note held by the John N. Kapoor Trust dated September 20, 1989 and (ix) 132,289 are issuable upon the conversion of interest related to the convertible note held by the John N. Kapoor Trust dated September 20, 1989.

(2) The reported shares include options to purchase shares. The shares reported for Directors Bruhl, Gaw and Ellis include options to purchase 20,000, 20,000 and 20,000 shares, respectively. In addition, Dr. Bruhl's retirement plan holds 64,266 of the listed shares.

(3) The shares reported include options to purchase 137,500 shares. Under the terms of the Employment Agreement executed by and between Mr. Pera and the Company, Mr. Pera received non-qualified stock options under the Company's Amended and Restated Akorn, Inc. 1988 Incentive Compensation Program to purchase 500,000 shares of the Company's common stock. These stock options vest in four equal increments of 125,000 shares beginning at June 4, 2001.

(4) Dr. Kapoor and Mr. Pera are also Named Executive Officers of the Company, and information regarding their beneficial ownership is included in this table under the section, "Directors and Nominees."

(5) Information reported for Mr. Benjamin, Ms. McConville and Mr. Koch is based on most recently reported information prior to their respective departures from the Company.

(6) Mr. Benjamin's shares are held by a trust of which Mr. Benjamin and his wife are trustees and their child is the beneficiary. Includes 490,000 shares issuable pursuant to options granted by the Company directly to Mr. Benjamin.

(7) The shares reported for Ms. McConville include options to purchase 86,250 shares.

(8) Of such 10,514,540 shares, 5,283,377 are not presently outstanding, but are issuable pursuant to option rights described in the preceding footnotes.

(9) The address of Wellington Management Company is 75 State Street, Boston, MA 02109.

(10) Of such 1,868,900 shares, (i) 439,900 are owned by Argent Fund Management Ltd., a United Kingdom corporation having a mailing address of 67 Cheval Place, London SW7 1HP, U.K. (Argent") for which Mr. Waney serves as Chairman and Managing Director and of which 51% is owned by Mr. Waney, (ii) 608,400 are owned by First Winchester Investments Ltd., a British Virgin Islands corporation having a mailing address of 8 Church Street, St. Helier, Jersey JE4 0SG, Channel Islands, which operates as an equity fund for investors unrelated to Mr. Waney and whose investments are directed by Argent, (iii) 495,000 are owned by Mr. Waney through certain Individual Retirement Accounts maintained in the United States, and (iv) 325,600 are owned directly by Mr. Waney and his spouse.

ITEM 13. CERTAIN RELATIONSHIPS AND RELATED TRANSACTIONS

On March 21, 2001, in consideration of Dr. John N. Kapoor assuming the positions of President and interim CEO of the Company, the Compensation Committee of the Board of Directors agreed to issue Dr. Kapoor 500,000 options under the Amended and Restated Akorn, Inc. 1988 Incentive Compensation Program in lieu of cash compensation.

On July 12, 2001, the Company entered into a $5,000,000 subordinated debt transaction with the John N. Kapoor Trust dtd. 9/20/89 (the "Trust"), the sole trustee and sole beneficiary of which is Dr. John N. Kapoor, the Company's current CEO and Chairman of the Board of Directors. The transaction is evidenced by a Convertible Bridge Loan and Warrant Agreement (the "Trust Agreement") in which the Trust agreed to provide two separate tranches of funding in the amounts of $3,000,000 ("Tranche A" which was received on July 13) and $2,000,000 ("Tranche B" which was received on August 16). As part of the consideration provided to the Trust for the subordinated debt, the Company issued the Trust two warrants which allow the Trust to purchase 1,000,000 shares of common stock at a price of $2.85 per share and another 667,000 shares of common stock at a price of $2.25 per share. The exercise price for each warrant represented a 25% premium over the share price at the time of the Trust's commitment to provide the subordinated debt.

Under the terms of the Trust Agreement, the subordinated debt will bear interest at prime plus 3%, which is the same rate the Company pays on its senior debt. Interest will not be paid to the Trust, but will instead accrue as required by the terms of a subordination agreement which was entered into between the Trust and the Company's senior lenders. The convertible feature of the Trust Agreement allows for conversion of the subordinated debt, and interest on Tranche B, into common stock of the Company, at a price of $2.28 per share of common stock for Tranche A and $1.80 per share of common stock for Tranche B and the interest on Tranche B.

In December 2001, the Company entered into a $3,250,000 five-year loan with NeoPharm, Inc. ("NeoPharm") to fund Akorn's efforts to complete its lyophilization facility located in Decatur, Illinois. Under the terms of the promissory note, dated December 20, 2001, evidencing the loan (the Promissory Note") interest will accrue at the initial rate of 3.6% and will be reset quarterly based upon NeoPharm's average return on its cash and readily tradable long and short-term securities during the previous calendar quarter. The principal and accrued interest is due and payable on or before maturity on December 20, 2006.

The note provides that Akorn will use the proceeds of the loan solely to validate and complete the lyophilization facility located in Decatur, Illinois. In consideration for the loan, under a separate manufacturing agreement between the Company and NeoPharm, the Company, upon completion of the lyophilization facility, agrees to provide NeoPharm with access to at least 15% of the facilities' capacity at discounted pricing. The Promissory Note is subordinated to Akorn's senior debt owed to The Northern Trust Company but is senior to Akorn's subordinated debt owed to the Trust. Dr. John N. Kapoor, the Company's chairman and chief executive officer is also chairman of NeoPharm and holds a substantial stock position in that company as well as in the Company.

Commensurate with the completion of the Promissory Note between the Company and NeoPharm, the Company entered into an agreement with the Trust, which amended the Trust Agreement. The amendment extended the Trust Agreement to terminate concurrently with the Promissory Note on December 20, 2006. The amendment also made it possible for the Trust to convert the interest accrued on the $3,000,000 tranche into common stock of the Company. Previously, the Trust could only convert the interest accrued on the $2,000,000 tranche. The change related to the convertibility of the interest accrued on the $3,000,000 tranche requires that shareholder approval be received by August 31, 2002.

PART IV

ITEM 14. EXHIBITS, FINANCIAL STATEMENT SCHEDULES, AND REPORTS ON FORM 8-K

(a).2. Financial Statement Schedule. The following Financial Statement Schedule is filed with this Annual Report on Form 10-K on the page indicated:

(a).3. Exhibits

Those exhibits marked with an asterisk (*) refer to exhibits filed herewith. The other exhibits are incorporated herein by reference, as indicated in the following list.

(2.0)	Agreement and Plan of Merger among Akorn, Inc., Taylor, and Pasadena Research Laboratories, Inc. dated May 7, 1996, incorporated by reference to the Company's report on Form 10-K for the fiscal year ended June 30, 1996.
(3.1)	Restated Articles of Incorporation of the Company dated September 6, 1991, incorporated by reference to Exhibit 3.1 to the Company's report on Form 10-K for the fiscal year ended June 30, 1991.
(3.2)	Articles of Amendment to Articles of Incorporation of the company dated February 28, 1997, incorporated by reference to Exhibit 3.2 to the Company's report on Form 10-K for the transition period from July 1, 1996 to December 31, 1996.
(3.3)	Current Composite of By-laws of the Company, incorporated by reference to Exhibit 3.3 to the Company's report on Form 10-K for the transition period from July 1, 1996 to December 31, 1996.
(4.1)	Specimen Common Stock Certificate, incorporated by reference to Exhibit 4.1 to the Company's report on Form 10-K for the fiscal year ended June 30, 1988.
(10.1)	Consulting Agreement dated November 15, 1990 by and between E. J. Financial Enterprises, Inc., a Delaware corporation, and the Company, incorporated by reference to Exhibit 10.24 to the Company's report on Form 10-K for the fiscal year ended June 30, 1991.
(10.2)	Amendment No. 1 to the Amended and Restated Akorn, Inc. 1988 Incentive Compensation Program, incorporated by reference to Exhibit 10.33 to the Company's report on Form 10-K for the fiscal year ended June 30, 1992.
(10.3)	1991 Akorn, Inc. Stock Option Plan for Directors, incorporated by reference to Exhibit 4.3 to the Company's registration statement on Form S-8, registration number 33-44785.

(10.4) Common Stock Purchase Warrant dated September 3, 1992, issued by the Company to the John N. Kapoor Trust dated September 20, 1989, incorporated by reference to Exhibit No. 7 to Amendment No. 3 to Schedule 13D, dated September 10, 1992, filed by John N. Kapoor and the John N. Kapoor Trust dated September 20, 1989.

(10.5) Amended and Restated Credit Agreement dated September 15, 1999 among the Company, Akorn (New Jersey), Inc. and The Northern Trust Company (the "Credit Agreement"), incorporated by reference to Exhibit 10.5 to the Company's report on Form 10-K for the fiscal year ended December 31, 1999.

(10.6) Amendment No. 1 to the Credit Agreement dated December 28, 1999, incorporated by reference to Exhibit 10.6 to the Company's report on Form 10-K for the fiscal year ended December 31, 1999.

(10.7) Amendment No. 2 to the Credit Agreement dated February 15, 2001, incorporated by reference to Exhibit 10.1 to the Company's report on Form 8-K filed on April 17, 2001.

(10.8) Amendment No. 3 to the Credit Agreement dated April 16, 2001, incorporated by reference to Exhibit 10.2 to the Company's report on Form 8-K filed on April 17, 2001.

(10.9) Promissory Note among the Company, Akorn (New Jersey), Inc. and The Northern Trust Company dated April 16, 2001, incorporated by reference to Exhibit 10.3 to the Company's report on Form 8-K filed on April 17, 2001.

(10.10) Letter of Commitment to the Company from John. N. Kapoor, incorporated by reference to Exhibit 10.3 to the Company's report on Form 8-K filed on April 17, 2001.

(10.11) Promissory Note among the Company, Akorn (New Jersey), Inc. and The Northern Trust Company dated April 16, 2001, incorporated by reference to Exhibit 10.3 to the Company's report on Form 8-K filed on April 17, 2001.

(10.12) Convertible Bridge Loan and Warrant Agreement dated as of July 12, 2001, by and between Akorn, Inc. and the John N. Kapoor Trust dtd. 9/20/89, incorporated by reference to Exhibit 10.1 to the Company's report on Form 8-K filed on July 26, 2001.

(10.13) The Tranche A Common Stock Purchase Warrant, dated July 12, 2001, incorporated by reference to Exhibit 10.2 to the Company's report on Form 8-K filed on July 26, 2001.

(10.14) The Tranche B Common Stock Purchase Warrant, dated July 12, 2001, incorporated by reference to Exhibit 10.3 to the Company's report on Form 8-K filed on July 26, 2001.

(10.15) Registration Rights Agreement dated July 12, 2001, by and between Akorn, Inc. and the John N. Kapoor Trust dtd. 9/20/89, incorporated by reference to Exhibit 10.4 to the Company's report on Form 8-K filed on July 26, 2001.

(10.16) Forbearance Agreement by and among Akorn, Inc., Akorn (New Jersey), Inc. and The Northern Trust Company, dated as of July 12, 2001, incorporated by reference to Exhibit 10.5 to the Company's report on Form 8-K filed on July 26, 2001.

(10.17) *Promissory Note among the Company, Akorn (New Jersey), Inc. and NeoPharm, Inc. dated December 20, 2001.

(10.18) *Processing Agreement dated December 20, 2001, by and between Akorn, Inc. and NeoPharm, Inc.

(10.19) *Subordination, Standby and Intercreditor Agreement dated December 20, 2001, by and between NeoPharm, Inc. and The Northern Trust Company.

(10.20) *Subordination and Intercreditor Agreement dated December 20, 2001, by and between NeoPharm, Inc. and the John N. Kapoor trust dtd. 9/20/89.

(10.21) *Waiver Letter dated December 20, 2001 by and between the Company, Akorn (New Jersey), Inc. and The Northern Trust Company.

(10.22) *Supply Agreement dated January 4, 2002, by and between Akorn, Inc. and Novadaq Technologies, Inc.

(21.1) *Subsidiaries of the Company.

(b) Reports on Form 8-K.

There was no Form 8-K filed during the fourth quarter of 2001.

AKORN, INC.

VALUATION AND QUALIFYING ACCOUNTS
YEARS ENDED DECEMBER 31, 2001, 2000 AND 1999

DESCRIPTION	BALANCE AT BEGINNING OF PERIOD	ADDITIONS CHARGED TO COSTS AND EXPENSES	DEDUCTIONS	BALANCE AT END OF PERIOD
Allowance for doubtful accounts				
1999	$ 425,000	$ 161,000	$ (360,000)	$ 226,000
2000	226,000	607,000	(32,000)	801,000
2001	801,000	12,000,000	(9,095,000)	3,706,000
Allowance for returns				
1999	$ --	$ 205,000	$ (205,000)	$ --
2000	--	1,159,000	(927,000)	232,000
2001	232,000	4,103,000	(3,787,000)	548,000
Allowance for discounts and allowances				
1999	$ --	$ --	$ --	$ --
2000	--	--	--	--
2001	--	886,000	(743,000)	143,000
Allowance for chargebacks and rebates				
1999	$1,549,000	$23,793,000	$(22,168,000)	$3,174,000
2000	3,174,000	29,558,000	(29,436,000)	3,296,000
2001	3,296,000	28,655,000	(27,761,000)	4,190,000
Allowance for inventory obsolescence				
1999	$ 572,000	$ 611,000	$ (1,049,000)	$ 134,000
2000	134,000	3,983,000	(946,000)	3,171,000
2001	3,171,000	1,830,000	(3,156,000)	1,845,000

SIGNATURES

In accordance with Section 13 or 15(d) of the Securities Exchange Act of 1934, the Registrant has duly caused this report to be signed on its behalf by the undersigned, thereunto duly authorized.

AKORN, INC.

By: /s/ JOHN N. KAPOOR
John N. Kapoor
Chief Executive Officer

Date: April 30, 2002

In accordance with the Securities Exchange Act of 1934, this report has been signed below by the following persons on behalf of the Registrant, and in the capacities and on the dates indicated.

SIGNATURE	TITLE	DATE
John N. Kapoor, Ph.D.	Chief Executive Officer and Director (Principal Executive Officer)	April 30, 2002
Antonio R. Pera	President, Chief Operating Officer and Director	April 30, 2002
Ben J. Pothast	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 30, 2002
	Director	April 30, 2002

Jerry N. Ellis	Director	April 30, 2002
Daniel E. Bruhl, M.D.	Director	April 30, 2002
Doyle S. Gaw		

Exhibit 10.17

THIS NOTE HAS NOT BEEN REGISTERED UNDER THE SECURITIES ACT OF 1933 OR ANY STATE SECURITIES LAWS. THIS NOTE MAY NOT BE SOLD, TRANSFERRED, ASSIGNED, OFFERED, PLEDGED OR OTHERWISE DISTRIBUTED UNLESS REGISTERED UNDER THE SECURITIES ACT OF 1933 AND APPLICABLE STATE SECURITIES LAWS OR SUCH SALE, TRANSFER, ASSIGNMENT, OFFER, PLEDGE OR OTHER DISTRIBUTION FOR VALUE IS EXEMPT FROM THE REGISTRATION REQUIREMENTS OF SUCH ACT AND SUCH LAWS.

PROMISSORY NOTE

$3,250,000.00 December 20, 2001
Buffalo Grove, Illinois

FOR VALUE RECEIVED, AKORN, INC., a Louisiana corporation ("Borrower"), promises to pay to the order of NEOPHARM, INC., a Delaware corporation ("NeoPharm," together with any person or entity to whom all or any portion of this Note may be transferred being hereinafter referred to as "Lender"), at its principal offices located at 150 Field Drive, Suite 195, Lake Forest, Illinois 60045, or at such other place as Lender may direct, the principal sum of THREE MILLION TWO HUNDRED FIFTY THOUSAND AND 00/100 DOLLARS ($3,250,000.00), and to pay interest thereon in accordance with the terms hereof, on December 20, 2006 (the "Maturity Date").

This Promissory Note (this "Note") has been executed in connection with (a) that certain Processing Agreement, of even date herewith (the "Processing Agreement"), between Lender and Borrower; and (b) that certain Subordination and Intercreditor Agreement, of even date herewith (the "Subordination Agreement"), between Borrower and John N. Kapoor, as Trustee under The John N. Kapoor Trust, dated September 20, 1989, (the trustee and the trust, together, "Kapoor"), to which reference is hereby made.

ARTICLE 1
INTEREST

1.1 Calculation of Interest Rate. Interest shall begin to accrue on the date hereof in accordance with the terms of this Section 1.1 and shall be compounded as of the first business day of each calendar quarter until all principal and accrued interest is paid. Commencing on the date hereof, interest shall accrue at a rate of 3.6% per annum. As of the first business day of each calendar quarter (each, a "Change Date"), commencing on January 1, 2002, Lender shall adjust the interest rate charged on all amounts of outstanding principal and interest accrued during the previous calendar quarter to a rate which is equal to the average return on all of

Lender's cash and readily tradable long- and short-term securities during such previous calendar quarter; thereafter, interest shall accrue on the unpaid outstanding principal and accrued interest at the most recently adjusted interest rate until the next Change Date. Lender shall furnish to Borrower a statement showing all such cash and securities and the return thereon for the prior calendar quarter in support of each adjustment to the interest rate. Interest shall be computed for the actual number of days elapsed on the basis of a year consisting of 365 days, including the date the loan is made and excluding the date the loan or any portion thereof is paid or prepaid.

1.2 Default Rate. After an Event of Default, interest shall accrue and be payable at a rate equal to (a) the interest rate calculated in accordance with Section 1.1, plus (b) three percent (3%) (the "Default Rate").

ARTICLE 2
PAYMENTS

2.1 Required Repayment. Borrower shall pay all amounts of outstanding principal and accrued but unpaid interest hereunder on the Maturity Date.

Borrower may prepay all outstanding principal and accrued but unpaid interest at any time without penalty or premium.

2.2 Manner of Payments. All payments made by Borrower hereunder shall be made to Lender at its principal offices located at 150 Field Drive, Suite 195, Lake Forest, Illinois 60045, Attn: Chief Financial Officer or at such other places as Lender may designate. All payments hereunder shall be made in immediately available funds, and shall be applied first to accrued interest and then to principal; however, if an Event of Default occurs, Lender may, in its sole discretion, and in such order as it may choose, apply any payment to interest, principal and/or lawful charges and expenses then accrued. All payments shall be made without deduction for or on account of any present or future taxes, duties or other charges levied or imposed on this Note or the proceeds thereof by any government or political subdivision thereof, except as required by law.

ARTICLE 3
OPERATIONS/LYOPHILIZATION RAMP-UP

3.1 Use of Proceeds. Borrower agrees that the proceeds from the loan evidenced by this Note shall be used solely (a) to achieve removal of all warning letter sanctions pursuant to Form 483 or current Good Manufacturing Practice regulations issued or imposed by the Food and Drug Administration ("FDA") with regard to Borrower's ability to handle and manufacture sterile pharmaceuticals and provide lyophilization services; (b) to obtain FDA validation for Borrower's operation of its facility located at 1222 West Grand Avenue, Decatur, Illinois (the "Facility") to offer and provide lyophilization services for the handling and manufacturing of sterile pharmaceuticals; (c) to obtain any other required license, consent, permit or approval from the FDA or any other governmental authority in the United States or its political subdivisions as shall be required to establish operations at the Facility to handle and manufacture sterile pharmaceuticals and provide lyophilization services; (d) to establish operations at the Facility to provide lyophilization services and to handle and manufacture sterile pharmaceuticals; and (e) to

make any capital expenditure necessary to provide lyophilization services (the items set forth in subsections (a), (b), (c), (d), and (e) collectively, the "Lyophilization Ramp-Up").

3.2 Additional Costs. Borrower shall be responsible for all costs whatsoever related to the Lyophilization Ramp-Up in excess of the proceeds hereunder and shall not require, request or demand additional amounts from Lender to fund the Lyophilization Ramp-Up other than the amounts loaned by Lender to Borrower or evidenced by this Note.

3.3 June 30, 2003. By June 30, 2003, Borrower shall (a) complete the Lyophilization Ramp-Up; (b) maintain the continued removal of all warning letter sanctions pursuant to Form 483 related to the Facility; and (c) be prepared to immediately begin development of the procedures for manufacture of Lender's products.

3.4 Change in Control. If Borrower experiences (a) a change in control of greater than fifty percent (50%) of Borrower's voting securities or (b) a change in control through a merger or the sale of all or substantially all of Borrower's assets, then Lender may declare all amounts of principal and interest under this Note immediately due and payable and/or terminate the Processing Agreement.

ARTICLE 4
REPRESENTATIONS

4.1 Organization and Qualification. Borrower is duly organized, validly existing and in good standing under the laws of the State of Louisiana, its state of incorporation. Borrower is duly qualified to do business as a foreign corporation and is in good standing in each jurisdiction in which the failure to receive or retain such qualification would have a material adverse effect on the business, operations or financial condition of Borrower.

4.2 Corporate Authority and Authorization. Borrower has all requisite

corporate, power, authority and legal right to execute and deliver and perform its obligations under this Note and all of Borrower's obligations described herein have been duly and validly authorized by all necessary corporate proceedings on the part of Borrower.

4.3 Execution and Binding Effect. This Note has been or shall be duly and validly executed and delivered by Borrower and this Note when executed and delivered shall constitute the legal, valid and binding obligations of Borrower enforceable in accordance with the terms hereof and thereof, except as such enforceability may be limited by bankruptcy, insolvency, reorganization, receivership, moratorium or other laws affecting creditors' rights generally.

4.4 Absence of Conflicts. The execution and delivery of this Note, consummation of the transactions herein or Borrower's performance of or compliance with the terms and conditions hereof or in the Processing Agreement shall not (a) materially violate any applicable law or regulation; (b) conflict with or result in a material breach of or a default under the certificate of incorporation or bylaws of Borrower, or any agreement or instrument to which Borrower is a party or by which Borrower or its properties is bound; or (c) result in the creation or imposition of any lien upon any property (now owned or hereafter acquired) of Borrower except as otherwise contemplated by this Note.

4.5 No Event of Default; Compliance with Instruments Corporate Documents and Material Agreements. As of the date hereof Borrower is not in violation of any term of its certificate of incorporation and/or bylaws and Borrower is not in violation of any term of its material agreements or instruments including, without limitation, (a) that certain Amended and Restated Credit Agreement, dated September 15, 1999, as most recently amended by that certain Forbearance Agreement (the "Forbearance Agreement"), dated July 12, 2001 (the Amended and Restated Credit Agreement and the Forbearance Agreement, together, the "Northern Trust Credit Facility"), among Borrower, Borrower's wholly owned subsidiary, Akorn (New Jersey), Inc., an Illinois corporation and the Northern Trust Company ("Northern Trust"); (b) that certain Junior Mortgage, dated March 21, 2001 between Borrower and Northern Trust (the "Northern Mortgage"); (c) two Mortgage Notes (together, the "Primary Mortgage"), each dated April 27, 1997, by and between Borrower and Standard Mortgage Investors ("Standard Investors"); (d) that certain Master Equipment Lease Agreement No. 08197, dated December 9, 1999, as amended December 26, 2000 (the "Asset Lease"), by and between Borrower and National City Leasing Corporation ("National City"); (e) that certain Convertible Bridge Loan and Warrant Agreement, dated July 12, 2001, by and between Borrower and the John N. Kapoor Trust, dated September 20, 1989 (the "Kapoor Loans"), or (f) any other material agreement or instrument to which Borrower is a party or by which it or its properties is bound.

4.6 Litigation. There is no pending action, suit or threatened proceeding by or before any governmental authority against or affecting Borrower which if adversely decided would have a material adverse effect on its financial condition or on its ability to comply with its obligations herein, except those disclosed on Exhibit A attached hereto.

4.7 Rights to Property. Except for the security interests (a) granted by Borrower to Northern Trust under the terms of the Northern Credit Facility and the Northern Mortgage; (b) granted to Standard Investors under the terms of the Primary Mortgage; and (c) retained by National City under the terms of the Asset Lease, Borrower has good and marketable title to all personal and real property purported to be owned by it.

4.8 Taxes. All tax returns required to be filed by Borrower have been properly prepared, executed and filed, and all taxes, assessments, fees and other governmental charges levied upon Borrower or upon any of its properties, incomes, sales or franchises which are shown to be due and payable thereon have been paid, other than taxes or assessments the validity or amount of which Borrower is contesting in good faith. The reserves and provisions for taxes on the books of Borrower are adequate for all open years and for its current fiscal period.

4.9 Financial Accounting Practices. Borrower and each of its subsidiaries have made and kept books, records and accounts which, in reasonable detail, accurately and fairly reflect their respective dealings or transactions of or in relation to the plants, properties, business and affairs of the Borrower and of each subsidiary, and Borrower shall keep, and cause each of its

subsidiaries to keep, proper books of account, in which full and correct entries shall be made of all dealings or transactions of or in relation to the plants, properties, business and affairs of the Borrower and of each subsidiary in accordance with generally accepted accounting principles applied on a consistent basis. The Borrower will at any and all times, upon the written request of the Lender and at the Lender's expense, permit the Lender by its representatives to inspect the plants and properties, books of account, records, reports and other papers of the Borrower and of

each subsidiary, and to take copies and extracts therefrom, and will afford and procure a reasonable opportunity to make any such inspection.

4.10 Accurate and Complete Disclosure. To the best of Borrower's knowledge, no representation made by Borrower under this Note and no statement made by Borrower in any financial statement, report filed with the Securities and Exchange Commission, certificate, exhibit or document furnished by Borrower to Lender pursuant to or in connection with this Note is false or misleading as of the date made in any material respect (including by omission of material information necessary to make such representation, warranty or statement not misleading). Lender has had adequate access to Borrower's management and opportunity to conduct it own due diligence examination of the plants and properties, books of account, records, reports and other papers of the Borrower and each of its subsidiaries.

4.11 Other Indebtedness. With the exception of (a) the Northern Credit Facility together with the Northern Mortgage; (b) the Primary Mortgage; (c) the Asset Lease; and (d) the Kapoor Loans, Borrower has no Indebtedness in excess of $100,000.

4.12 Capital Stock. All of the outstanding capital stock of Borrower has been duly authorized and validly issued, and is non-assessable.

4.13 Environmental Warranties. To the best of Borrower's knowledge, Borrower and each of its subsidiaries is in substantial compliance with all environmental laws, regulations, rules, ordinances, permits, orders, and other requirements applicable to it, the operations of each or the real or personal property owned, leased or operated by each, including without limitation, all such laws governing employment, the generation, use, storage, disposal or transportation of toxic or hazardous substances or wastes. Borrower has not received notice of, and is not aware of, any violations or alleged violations, or any liability or asserted liability, under any such environmental laws, with respect to Borrower, its subsidiaries, or their respective businesses or properties.

ARTICLE 5
COVENANTS

Except as otherwise permitted under the Northern Trust Credit Facility or consented to in writing by Northern Trust, Borrower covenants and agrees that, without the prior written consent of Lender, from and after the date hereof until all amounts of principal and interest hereunder are repaid and discharged:

5.1 Indebtedness. Borrower shall not create, incur, assume or permit to exist any Indebtedness, after the date hereof except (a) deferred taxes; (b) unfunded pension fund and other employee benefit plan obligations and liabilities to the extent they are permitted to remain unfunded under applicable law; (c) existing Indebtedness, which includes (i) amounts outstanding under the Northern Credit Facility and any additional advances or borrowings under the Northern Credit Facility in accordance with the terms thereof, (ii) the Primary Mortgage, (iii) the Northern Mortgage and any additional advances or borrowings under the Northern Mortgage, in accordance with the terms thereof, (iv) the Asset Lease, (v) the Kapoor Loans, and (vi) the loans made by Lender evidenced by this Note, or the refinancing of any of the documents or

facilities set forth in subparagraphs (i) through (vi), the refinanced terms of which shall in any event be on terms no less favorable to Borrower or Lender

than the terms of the Indebtedness being refinanced; (d) any financing secured by any real estate owned by Borrower; and (e) the unsecured financing by a seller of product lines to Borrower.

"Indebtedness" shall mean (a) any obligation for the repayment of borrowed money or, with respect to the purchase price of property, any payment which is deferred six (6) months or more after the date of acquisition, but excluding obligations to trade creditors incurred in the ordinary course of business that are not overdue by more than six (6) months unless being contested in good faith; (b) reimbursement and all other obligations with respect to letters of credit, bankers' acceptances and surety bonds, whether or not matured; (c) all obligations evidenced by notes, bonds, debentures or similar instruments; (d) any obligation for the payment of money created or arising under any conditional sale or other title retention agreement; (e) all capital leases; and (f) any agreement to guarantee the indebtedness of a subsidiary of Borrower or any other person or business entity.

5.2 Business. Borrower shall not make any changes in its business objectives, purposes or operations which could in any way adversely affect the repayment of this Note or Borrower's ability to comply with its obligations contained in the Processing Agreement.

5.3 Liens. Borrower shall not create, incur, assume or permit to exist any Lien on or with respect to any of its properties or assets whether now owned or hereafter acquired, except (a) presently existing or hereafter created Liens in favor of Lender; (b) Liens created after the date hereof by conditional sale or other title retention agreements (including, without limitation, capital leases) or in connection with purchase money Indebtedness with respect to properties acquired by Borrower in the ordinary course of business, involving the incurrence of an aggregate amount of purchase money Indebtedness and capital lease obligations of not more than $1,000,000 outstanding at any one time for all such Liens (provided that such Liens attach only to the assets subject to such purchase money Indebtedness and such Indebtedness is incurred within twenty (20) days following such purchase and does not exceed 100% of the purchase price of the subject assets); (c) Liens in connection with any financing secured by any real estate owned by Borrower; and (d) Liens existing on the date hereof and described in Exhibit A hereto.

In addition, Borrower shall not become a party to any agreement, note, indenture or instrument, or take any other action, which would prohibit the creation of a Lien on any of its properties or other assets in favor of Lender, as collateral for payment and satisfaction of the outstanding principal and accrued interest under this Note, except operating leases, capital leases or intellectual property licenses which prohibit liens upon the assets that are subject thereto.

"Lien" shall mean any mortgage or deed of trust, pledge, hypothecation, assignment, deposit arrangement, lien, charge, claim, security interest, easement or encumbrance, or preference, priority or other security agreement or preferential arrangement of any kind or nature whatsoever (including any lease or title retention agreement, any financing lease having substantially the same economic effect as any of the foregoing, and the filing of, or agreement to give, any financing statement perfecting a security interest under the Uniform Commercial Code or comparable law of any jurisdiction).

5.4 Cancellation of Indebtedness. Borrower shall not cancel any claim or debt owing to it, except for reasonable consideration negotiated on an arm's-length basis and in the ordinary course of its business consistent with past practices.

ARTICLE 6
EVENTS OF DEFAULT: RIGHTS AND REMEDIES

6.1 Events of Default. The occurrence of any one or more of the following events (regardless of the reason therefor) shall constitute an "Event of Default" hereunder: (a) Borrower shall fail to make any payment of principal of, or interest on, or any other amount owing in respect of this Note when due and payable; (b) Borrower shall fail to pay any costs or expenses payable or reimbursable by Borrower under this Note, and such failure shall have remained unremedied for a period of thirty (30) days or more; (c) Borrower shall fail or neglect to perform, keep or observe any of the provisions of this Note (and not

constituting an Event of Default under any of the other subsections of this Section 6.1) and such failure shall have remained unremedied for a period of thirty (30) days or more; (d) Borrower shall fail to perform, keep or observe any provision of the Processing Agreement after the grace period (if any) set forth therein or the Processing Agreement shall not be effective on or before June 30, 2003; (e) a default or breach that is not waived in writing shall occur under the Northern Credit Facility, The Northern Mortgage, the Primary Mortgage, the Asset Lease or the Kapoor Loans; (f) a default under any agreement, document or instrument, excluding those specified in subsection 6.1(e), to which Borrower is a party and such default is not cured or waived within any applicable grace period and such default or breach (i) involves the failure to make any payment when due in respect of any Indebtedness of Borrower or any subsidiary of Borrower in excess of $50,000 in the aggregate, or (ii) causes such Indebtedness or a portion thereof in excess of $100,000 in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, or (iii) entitles any holder of such Indebtedness to cause such Indebtedness or a portion thereof in excess of $100,000 in the aggregate to become due prior to its stated maturity or prior to its regularly scheduled dates of payment, regardless of whether such right is exercised or waived by such holder or trustee; (g) The Forbearance Agreement expires, unless the same expires without Borrower being in breach or default thereof; (h) Kapoor breaches or repudiates or attempts to breach or repudiate, the Subordination Agreement or the Subordination Agreement is terminated by operation of its terms or operation of law; (i) any representation or warranty herein or in any written statement, report filed with the Securities and Exchange Commission, financial statement or certificate made or delivered to Lender by Borrower shall be untrue or incorrect in any material respect, as of the date when made or deemed made; (j) assets of Borrower or any subsidiary thereof with a fair market value of $100,000 or more shall be attached, seized, levied upon or subjected to a writ or distress warrant, or come within the possession of any receiver, trustee, custodian or assignee for the benefit of creditors of Borrower or any subsidiary thereof and such condition shall continue for thirty (30) days or more; (k) a case or proceeding shall have been commenced against Borrower or any subsidiary thereof in a court having competent jurisdiction seeking a decree or order in respect of Borrower or any subsidiary thereof (i) under Title 11 of the United States Code, as now constituted or hereafter amended or any other applicable federal, state or foreign bankruptcy or other similar law, (ii) appointing a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) for Borrower or any subsidiary thereof or of any substantial part of the assets thereof, or (iii) ordering the winding-up or liquidation of the affairs of Borrower or any subsidiary thereof and

such case or proceeding shall remain undismissed or unstayed for forty-five (45) days or more or such court shall enter a decree or order granting the relief sought in such case or proceeding; (l) Borrower or any subsidiary thereof shall (i) file a petition seeking relief under Title 11 of the United States Code, as now constituted or hereafter amended, or any other applicable federal, State or foreign bankruptcy or other similar law, (ii) consent to the institution of proceedings thereunder or to the filing of any such petition or to the appointment of or taking possession by a custodian, receiver, liquidator, assignee, trustee or sequestrator (or similar official) of Borrower or any subsidiary thereof or of any substantial part of its respective assets, (iii) make an assignment for the benefit of creditors, or (iv) take any corporate action in furtherance of any such action; or (m) a final judgment or judgments for the payment of money in excess of $250,000 in the aggregate shall be rendered against Borrower or any subsidiary thereof and the same shall not (i) be fully covered by insurance, or (ii) within thirty (30) days after the entry thereof, have been discharged or execution thereof stayed pending appeal, or shall not have been paid or otherwise discharged prior to the expiration of any such stay.

6.2 Remedies. If any Event of Default shall have occurred and be continuing (a) all of the outstanding principal and accrued and unpaid interest under this Note shall be immediately due and payable without presentment, demand, protest or further notice of any kind, all of which are expressly waived by Borrower; (b) the rate of interest applicable to this Note shall be increased to the Default Rate; and (c) Borrower may exercise any rights and remedies provided to Lender under this Note and/or at law or equity.

6.3 Waivers by Borrower. Except as otherwise provided for in this Note or by applicable law, Borrower waives presentment, demand and protest and notice

of presentment, dishonor, notice of intent to accelerate, notice of acceleration, protest, default, nonpayment, maturity, release, compromise, settlement, extension or renewal of any or all commercial paper, accounts, contract rights, documents, instruments, chattel paper and guaranties at any time held by Lender on which Borrower may in any way be liable, and hereby ratifies and confirms whatever Lender may do in this regard. Borrower acknowledges that it has been advised by counsel of its choice with respect to this Note and the transactions evidenced by this Note.

ARTICLE 7
SUCCESSORS AND ASSIGNS

This Note shall be binding on and shall inure to the benefit of Borrower and Lender and their respective successors and assigns, except as otherwise provided herein. Borrower may not assign, transfer, hypothecate or otherwise convey its rights, benefits, obligations or duties hereunder without the prior express written consent of Lender. Any such purported assignment, transfer, hypothecation or other conveyance by Borrower without the prior express written consent of Lender shall be void. The terms and provisions of this Note are for the purpose of defining the relative rights and obligations of Borrower and Lender with respect to the transactions contemplated hereby and there shall be no third party beneficiaries of any of the terms and provisions of this Note.

ARTICLE 8
SUBORDINATION

Anything in this Note to the contrary notwithstanding, the Indebtedness evidenced by this Note, both principal and interest, and the right to seek enforcement of any of the rights granted to Lender herein, shall be subordinate and junior to all obligations of Borrower incurred under the Northern Credit Facility, between Borrower and Northern Trust.

ARTICLE 9
NOTICES

All notices, requests, demands and payments of principal and interest given to or made under this Note shall, except as otherwise specified in this Note, be in writing and shall be effective upon the earlier of (a) receipt or (b) the fifth (5th) day following the date such notice was mailed properly addressed, first class, registered or certified mail, return receipt requested, postage prepaid, to the other party at the following addresses (which may be changed at any time by notice under this Article 9):

If to NeoPharm, Inc.
150 Field Drive, Suite 195
Lake Forest, Illinois 60045
Facsimile No.: (847) 295-8854
Attn: James Hussey

With a copy to:
Ross & Hardies
150 North Michigan Avenue
Chicago, Illinois 60601-7567
Facsimile No.: (312) 750-8600
Attn: Scott Becker

If to Akorn, Inc.
Akorn, Inc.
2500 Millbrook Drive
Buffalo Grove, IL 60089-4694
Facsimile No. (847) 279-6123
Attn: Antonio Pera

With a copy to:
Tressler, Soderstrom, Maloney & Priess
2100 Manchester Road, Suite 950
Wheaton, Illinois
Facsimile No.: (630) 668-3003
Attn: William A. Kindorf, III

ARTICLE 10
GOVERNING LAW & WAIVER OF JURY TRIAL

This Note and any document or instrument executed in connection herewith shall be governed by and construed in accordance with the internal law of the State of Illinois, and shall be deemed to have been executed in the State of Illinois. Unless the context requires otherwise, wherever used herein the singular shall include the plural and vice versa, and the use of one gender shall also denote the other. Captions herein are for convenience of reference only and shall not define or limit any of the terms or provisions hereof; references herein to Articles or provisions without reference to the document in which they are contained are references to this Note. This Note shall bind Borrower, its trustees (including without limitation successor and replacement trustees), successors and assigns, and shall inure to the benefit of Lender, its successors and assigns, except that Borrower may not transfer or assign any of its rights or interest hereunder without the prior written consent of Lender.

BORROWER HEREBY IRREVOCABLY AGREES THAT, SUBJECT TO LENDER'S SOLE AND ABSOLUTE ELECTION, ALL SUITS, ACTIONS OR OTHER PROCEEDINGS WITH RESPECT TO, ARISING OUT OF OR IN CONNECTION WITH THIS NOTE OR ANY DOCUMENT OR INSTRUMENT EXECUTED IN CONNECTION HEREWITH SHALL BE SUBJECT TO LITIGATION IN COURTS HAVING SITUS WITHIN OR JURISDICTION OVER COOK COUNTY, ILLINOIS. BORROWER HEREBY CONSENTS AND SUBMITS TO THE JURISDICTION OF ANY LOCAL, STATE OR FEDERAL COURT LOCATED IN OR HAVING JURISDICTION OVER SUCH COUNTY, AND HEREBY IRREVOCABLY WAIVES ANY RIGHT IT MAY HAVE TO REQUEST OR DEMAND TRIAL BY JURY, TO TRANSFER OR CHANGE THE VENUE OF ANY SUIT, ACTION OR OTHER PROCEEDING BROUGHT BY LENDER IN ACCORDANCE WITH THIS PARAGRAPH, OR TO CLAIM THAT ANY SUCH PROCEEDING HAS BEEN BROUGHT IN AN INCONVENIENT FORUM.

ARTICLE 11
MISCELLANEOUS

11.1 Construction. Wherever possible, each provision of this Note shall be interpreted in such a manner as to be effective and valid under applicable law, but if any provision of this Note is prohibited by or invalid under applicable law, such provision shall be ineffective only to the extent of such prohibition or invalidity without invalidating the remainder of such provision or the remaining provisions of this Note.

11.2 Amendments. This Note may not be and shall not be deemed or construed to have been modified, amended, rescinded, canceled, or waived in whole or in part, except by written instruments signed by Borrower and Lender.

11.3 No Waiver. Lender's failure at any time or times, to require strict performance by Borrower of any provision of this Note or Promissory Agreement shall not waive, affect or diminish any right of Lender thereafter to demand strict compliance and performance therewith. Any suspension or waiver of an Event of Default under this Note or Promissory Agreement shall

not suspend, waive or affect any other Event of Default under this Note or Promissory Agreement whether the same is prior or subsequent thereto and whether of the same or of a different type. None of the undertakings, agreements, warranties, covenants and representations of Borrower contained in this Note or Promissory Agreement and no Event of Default by Borrower under this Note or Promissory Agreement shall be deemed to have been suspended or waived by Lender unless such waiver or suspension is by an instrument in writing signed by an officer of or other authorized employee of Lender and directed to Borrower specifying such suspension or waiver.

IN WITNESS WHEREOF, Borrower has caused this Note to be duly executed as of the day and year first above written.

AKORN, INC.
By:

Its:

Accepted:

NEOPHARM, INC.
By:

Its: President and Chief Executive Officer

Acknowledged:

THE NORTHERN TRUST COMPANY
By:

Its:

EXHIBIT A

1. LITIGATION.

1. Shareholder Class Action Lawsuit - Filed August 9, 2001

Class action lawsuit filed against the Company, Mr. Floyd Benjamin, former CEO, and Mr. John Kapoor, current chairman and interim CEO. Potential damages unknown at this time.

2. NovaDaq Technologies - Filed April 4, 2001

The Company was notified by the International Court of Arbitration that NovaDaq filed a request for Arbitration in relation to an Existing agreement between NovaDaq and the company. Potential damages estimated at $4.4 million by NovaDaq.

2. LIENS.

TRANSACTION	SECURED PARTY	DEBTOR	JURISDICTION	FILE NO.	ACTION	DATE
EQUIPMENT LEASE NO. OL-8248 WITH AMPLICON, INC.; SECURED BY UCC FINANCING STATEMENT COVERING EQUIPMENT	THE CIT GROUP/ EQUIPMENT FINANCING, INC. 1620 W. Fountainhead Pkwy. Tempe, AZ 85282	AKORN	LA and St. Tammany Parrish	52-E7167 52-E7167 52-E8067 52-19775	Filed Correction Amendment Continuation	11/29/94 3/16/95 5/30/95 10/22/99
MORTGAGE LOAN NOS. 98021903 AND 98021904 DATED 4/27/97; SECURED BY MORTGAGES ON DECATUR REAL PROPERTIES; PRINCIPAL BALANCE AT 6/30/01 $2,318,214.90, FINAL PAYMENT DUE JUNE 2008	STANDARD MORTGAGE INVESTORS	AKORN	Macon Co., IL			

TRANSACTION	SECURED PARTY	DEBTOR	JURISDICTION	FILE NO.	ACTION	DATE
Amended and Restated Credit Agreement dated 9/15/99 as amended by Forbearance Agreement dated 7/12/01 for	The Northern Trust Company 50 South LaSalle Street Chicago, IL 60675	Akorn	CA IL	9800560381 9800560407 3780342 4097177	Filed Amendment Filed Amendment Filed Amendment	12/31/97 9/21/99 12/31/97 9/21/99 12/30/97 9/21/99

$45,000,000 line of credit; secured by UCC financing statements covering accounts, inventory and equipment				4203325	Partial Release	4/24/00
		Taylor Pharmaceuticals (merged with Akorn)	IL	3780343	Filed	12/30/97
				4097192	Amendment	9/21/99
		Akorn (New Jersey)	IL	4096623	Filed	9/21/99
			NJ	01930630	Filed	9/20/99
Equipment Lease Nos. VJ3317 and W10811 with Lincoln Service & Equipment Co.; secured by UCC financing statement covering equipment	Associates Leasing, Inc. 8001 Ridgepoint Drive Irving, TX 75063	Akorn	NJ	01885213	Filed	1/21/99
Equipment Lease No. 5387; secured by UCC financing statement covering equipment	Deerbart Financial Services Co. 2250 E. Devon Ave., Ste. 251 Des Plaines, IL 60018	Akorn	IL	4022989	Filed	4/20/99
Master Equipment Lease Agreement No. 08197-0012, dated December 9, 1999, as amended December 26, 2000; acquisition cost $3,811,028.93 with monthly payments of $52,577.71 through 12/26/07; secured by UCC financing statement covering equipment	National City Leasing Corp. P.O. Box 36040 Louisville, KY 40233	Akorn	IL	4314294	Filed	1/03/01
Junior Mortgage dated 3/21/01	The Northern Trust Company 50 South LaSalle Street Chicago, IL 60675	Akorn				

Exhibit 10.18

PROCESSING AGREEMENT

THIS PROCESSING AGREEMENT (the "Agreement") is made and entered into this 20th day of December, 2001, between Akorn, Inc., a Louisiana Corporation ("Akorn") and NeoPharm, Inc., a Delaware Corporation ("NeoPharm").

WHEREAS, NeoPharm is a pharmaceutical company which has developed certain chemotherapeutic agents (the "Products");

WHEREAS, Akorn owns and operates a lyophilization facility located at 1222 West Grand Avenue, Decatur, Illinois (the "Facility") and has the ability and capacity to process and finish pharmaceutical products; and

WHEREAS, NeoPharm desires to contract with Akorn to process and finish the Products at the Facility, and Akorn desires to provide such services, on the terms and conditions set forth herein

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth herein, the parties agree as follows:

ARTICLE I
PROCESSING ESTIMATE/DELIVERY OF PRODUCTS

Section 1.1. Processing Estimate. At least thirty (30) days prior to the Effective Date (as defined herein), and at least thirty (30) days prior to the commencement of each twelve (12) month period thereafter, NeoPharm shall deliver to Akorn its good faith estimate (the "Estimate") of the quantity of Products to be Processed (as defined herein) by Akorn hereunder for the upcoming twelve (12) month period. Such estimate shall be non-binding, and NeoPharm shall update the Estimate quarterly based upon its expected Processing needs. Akorn agrees to allocate to the Processing of NeoPharm's Products no less than fifteen percent (15%) of the Facility's Processing capacity during every twelve (12) month period during the Term of this Agreement; the actual allocation of the Facility's capacity to NeoPharm for such period shall be agreed upon by the parties and is referred to herein as the "Processing Maximum". Processing Capacity shall be measured in terms of hours usage of the Facility. NeoPharm shall have the right to audit Akorn's books and records to ascertain compliance with this Section 1.1.

Section 1.2. Purchase Orders. From time to time, NeoPharm shall provide Akorn with a purchase order (the "Purchase Order") which shall set forth the Product to be Processed and the quantity of Bulk Product to be Processed by Akorn (the "Batch"). Akorn shall provide NeoPharm with written acceptance of the Purchase Order, which acceptance shall set forth the date the Processing Run (as defined herein) for the Batch covered by such Purchase Order shall commence (the "Processing Run Commencement Date"). Akorn agrees that the Processing Run Commencement Date shall be no later than fourteen (14) days after Akorn's receipt of the

Purchase Order. Akorn shall use its best efforts to accommodate NeoPharm's request to amend a Purchase order to modify the size of a Batch to be Processed.

Section 1.3. Estimated Yield. Upon Akorn's acceptance of a Purchase Order, Akorn shall calculate the estimated Final Product to be manufactured (the "Estimated Yield") from the Batch that is the subject of the Purchase Order. The Estimated Yield factor to be applied to each Purchase Order shall be based upon the optimum yield determined from the first (3) Processing Runs of a particular Product. Such determination and each such Processing Run shall be performed and conducted in the presence of a NeoPharm representative. In the event NeoPharm disagrees with Akorn's Estimated Yield, the Parties shall in good faith agree upon a third party to review the data Akorn utilized to calculate the Estimated Yield. The findings of such third party shall be binding on both parties. In the event that the actual yield of any Batch is less than ninety-five percent (95%) of the Estimated Yield, NeoPharm shall be entitled to an investigation of the reason(s) for the reduced yield of the Batch, and NeoPharm shall be entitled to an equitable reduction (the "Yield Credit") in the Processing Fee (as defined herein).

Section 1.4. Delivery of Bulk Products. At least fifteen (15) business days prior to each Processing Run Commencement Date, NeoPharm shall deliver to Akorn sufficient amounts of Bulk Product for such Processing Run along with any

applicable vial labeling materials. For purposes of this Agreement, Bulk Product shall mean formulated solutions of the Products. NeoPharm warrants that all Bulk Product provided hereunder shall meet all applicable specifications and shall have been produced in compliance with applicable federal, state and local laws and regulations, including, without limitation, the Good Manufacturing Practices Regulations ("GMPs") of the United States Food and Drug Administration ("FDA"), 21 C.F.R. part 211, in effect at the time of Processing. In connection with the delivery of Bulk Product, NeoPharm shall provide Akorn with written certification of the sterility of Bulk Product.

Section 1.5. Ownership/Risk of Loss. NeoPharm shall own all Bulk Product delivered by NeoPharm and all Finished Product (as defined herein) Processed by Akorn and, except in a case giving rise to Akorn's indemnification responsibilities hereunder, NeoPharm shall bear the risk of loss with respect to such materials.

ARTICLE II
PROCESSING OF BULK PRODUCTS

Section 2.1. Processing Obligations. Commencing with each Processing Run Commencement Date, Akorn shall Process the Bulk Product corresponding to the applicable Purchase Order in accordance with the terms of this Article II (each a "Processing Run"). For purposes of this Agreement, "Processing" shall mean filling into vials, lyophilizing, inspecting and packaging the Bulk Product in order to produce finished pharmaceutical dosage forms of the Products (the "Finished Product"). The parameters (the "Processing Parameters") under which Akorn shall Process the Bulk Product shall be mutually agreed upon by the Parties at least thirty (30) days prior to the Effective Date and shall be attached hereto as Schedule 2.1. Any amendments and/or additions to the Processing Parameters or the equipment, test methods,

specifications or any other requirement of this Agreement or with respect to the operation of the Facility, must be mutually agreed to by the parties in writing and shall be attached to Schedule 2.1. Notwithstanding the foregoing and in addition to any supplemental parameters agreed to by the parties with respect to a particular Processing Run, Akorn's Processing at a minimum shall consist of the following components:

(a) Preparation and retention of the master production and control records required by the FDA for each Product pursuant to 21 CFR 600.12 (the "Batch Records") as approved by Akorn and NeoPharm.

(b) Compliance with the applicable standards from the USP-NF guidelines.

(c) Furnishing vials, stoppers and seals for the Products and conducting the appropriate inspection, testing and release thereof.

(d) Preparation and sterilization of vials and stoppers in accordance with Akorn's Standard Procedures;

(e) Aseptically filling vials within tolerance limits set by NeoPharm and holding filled vials under specified conditions which shall be provided by NeoPharm until loaded in lyophilizer;

(f) Aseptically stopping and sealing lyophilized product vials.

(g) Performance of Quality Control Testing of finished dosage forms in accordance with NeoPharm's specifications.

(h) Inspection of the finished dosage form.

(i) Storage of quarantined vials at mutually agreed upon temperatures until instructed by NeoPharm to ship the Finished Product.

(j) Shipping of the Finished Product in accordance with NeoPharm's specifications.

Section 2.2. Addition of Other Products to the Agreement. NeoPharm may add additional pharmaceutical products to be Processed by Akorn. The parties shall mutually agree upon any Processing Parameters and the Processing Fee for such additional products.

Section 2.3. Representations and Warranties of Akorn. Akorn agrees that in performing the Processing services hereunder, it shall comply with applicable GMPs and that it shall use its best efforts to maintain the Facility in such a fashion as to be in compliance with all applicable federal, state and local rules and regulations. Akorn agrees that it shall maintain all licenses and permits required by any applicable federal, state or local agency, including but not limited to the FDA, in order to operate the Facility and provide the Processing services required hereunder. Without limiting the generality of the foregoing, Akorn agrees that it will cause its

employees and agents to follow all procedures developed and implemented in connection with the removal of the warning letter sanctions pursuant to Form 483 or current GMP regulations issued or imposed by the FDA with regard to the Facility. Akorn also agrees to store all manufacturing and laboratory records on the site where the Processing is performed and to keep such records readily available. Further, Akorn represents and warrants that it shall use its best efforts to insure that all filtration, filling and lyophilization of the Product by Akorn shall be done in an aseptic processing environment and in accordance with the Processing Parameters.

Section 2.4. Facilities Inspection. During the Term of this Agreement, NeoPharm shall have the right, at its expense, to audit the Facility for Akorn's compliance with GMPs and any other applicable laws. NeoPharm agrees to provide Akorn with reasonable prior notice of the date of such audit. In addition to the foregoing, NeoPharm shall have the right to designate an individual to be at the Facility to monitor each Processing Run. NeoPharm agrees that its employees or agents who inspect the Facility or who are on site at the Facility during a Processing Run will comply with Akorn's rules, regulations and GMPs.

Section 2.5. Akorn Obligation to Meet Requirements. Akorn agrees to fulfill, in each twelve (12) month period during the Term of this Agreement (as defined herein), all Purchase Orders placed by NeoPharm up to one hundred percent (100%) of NeoPharm's most recently updated Estimate. Akorn shall use reasonable efforts to supply any quantity ordered by NeoPharm of Product in excess of the Estimate subject to Akorn's production scheduling capabilities and commitments to other customers.

Section 2.6. Subcontracting. Akorn shall not pass to a third party any work entrusted to it under this Agreement without first obtaining NeoPharm's written approval of such arrangements, which approval shall not be unreasonably withheld.

Section 2.7. Quality Assurance Department. Akorn agrees that at all times during the term of this Agreement, it shall maintain a quality assurance department (the "Quality Assurance Department") for purposes of monitoring the quality of Akorn's Processing hereunder and for purposes of approving each Batch Processed hereunder. Akorn agrees that upon NeoPharm's request, it shall provide NeoPharm with copies of the policies, procedures and findings of the Quality Assurance Department.

ARTICLE III
SHIPMENT AND STORAGE

Section 3.1. Storage. Akorn shall store and handle the Bulk Product and Finished Product as required by the Processing Parameters. Akorn shall take such actions as are reasonably necessary to protect the Bulk Product and Finished Product from damage and deterioration. Vials of Finished Product will be stored at the recommended controlled temperature until shipped as instructed by NeoPharm.

Section 3.2. Release of Finished Product. Upon Akorn's Quality Assurance Department's written release of a Batch of Finished Product, Akorn shall promptly ship the Finished Product to NeoPharm or, at NeoPharm's discretion, warehouse Finished Product, in accordance with FDA and GMP warehousing

procedures, for a maximum of thirty (30) days at no cost, and thereafter at charges to be mutually agreed upon, to the extent warehousing space is available. Akorn shall provide NeoPharm with properly completed Batch Records, prepared in conformance with the Processing Parameters, within five (5) days following Akorn's written release of such Batch but, in no event more than four (4) weeks from the date the Processing Run is completed (i.e., the date the filling or lyophilization is completed).

Section 3.3. Transfer of Finished Product to NeoPharm. Finished Product shall be shipped to NeoPharm in accordance with NeoPharm's written instructions. Unless otherwise agreed to in writing by the Parties, there shall be only one shipment per Batch of Finished Product. NeoPharm shall be responsible for all costs associated with the shipment of Finished Product

Section 3.4. Rejection. NeoPharm may reject any Batch of Finished Product failing to meet any of the Processing Parameters by providing Akorn with written notice of such rejection (the "Rejection") within sixty (60) days following NeoPharm's receipt of the applicable Batch Records and written notice from Akorn stating that Akorn's Quality Assurance Department has approved the Batch. Any rejection by NeoPharm pursuant to this Section 3.4 shall be accompanied by a report of analysis, including a product sample from the Batch analyzed. NeoPharm's failure to reject a Batch of Finished Product in the manner set forth above shall constitute acceptance thereof except to the extent that any defect in the Batch was not discovered by NeoPharm after exercising due diligence and using customary testing procedures accepted in the industry and provided that NeoPharm notifies Akorn of any such defect within a reasonable time after NeoPharm discovers or should have discovered the defect and before any substantial change in the condition of the Batch which is not caused by such defect. In the event Akorn accepts NeoPharm's Rejection, NeoPharm shall be entitled to a credit against the Processing Fee (the "Rejection Credit") equal to the Processing Fee for such Batch and the cost, not to exceed $25,000, of NeoPharm's Bulk Product. In the event the Parties can not agree upon whether the Rejection was justified, the Parties shall mutually agree upon a third party to test samples of such Batch and to review records and test data and other relevant information developed by both parties relating thereto to ascertain whether the Batch was manufactured in accordance with the Processing Parameters. The findings of such third party shall be binding on both parties. If the third party determines that the Batch was manufactured in accordance with the Processing Parameters, NeoPharm shall be deemed to have accepted the affected Batch. If the third party determines that the Batch was not manufactured in accordance with the Processing Parameters, NeoPharm shall be entitled to the Rejection Credit. The Parties shall share the costs of any such third party testing. In the event a Batch was properly Rejected, Akorn agrees that NeoPharm shall be entitled to a replacement Processing Run, regardless of whether such replacement Processing Run will cause NeoPharm to exceed the Processing Maximum.

ARTICLE IV
PRICE OF MANUFACTURE

Section 4.1. Price. In consideration of the Processing provided by Akorn hereunder, NeoPharm agrees to pay Akorn a processing fee (the "Processing Fee"), as modified by the Yield Credit or the Rejection Credit, if applicable. The Processing Fee shall be mutually agreed upon by the Parties at least thirty (30) days prior to the Effective Date based upon the Processing Parameters for each Product, after a trial run if necessary, and shall be attached hereto as Schedule 4.1.

Section 4.2. Most Favored Pricing. Akorn agrees that the Processing Fee charged to NeoPharm hereunder shall be no higher than the lowest fee charged by Akorn to any customers with similar processing requirements for Processing at the Facility, regardless of any discounts afforded to such other customers. NeoPharm shall have the right to audit Akorn's books and records to ascertain compliance with this Section 4.2.

ARTICLE V
TERM AND TERMINATION

Section 5.1. Term. This Agreement shall have an initial term (the "Initial Term") commencing on the date the warning letter sanctions imposed by the FDA pursuant to Form 483 or current GMP regulations on Akorn and/or the Facility have been removed (the "Effective Date") and ending on the later of (i) the fifth (5th) anniversary of the Effective Date, or (ii) two (2) years after the

date on which Akorn pays all amounts of principal and accrued interest under that certain Promissory Note (the "Note"), dated December 20, 2001, issued by Akorn to NeoPharm in exchange for a loan in principal amount of Three Million Two Hundred Fifty Thousand Dollars ($3,250,000) plus interest. This Agreement will automatically extend for two additional, five-year terms (each, an "Additional Term") beyond the Initial Term, provided, however, that either NeoPharm or Akorn may terminate this Agreement at the end of the Initial Term or an Additional Term, as the case may be, by sending a termination notice ninety (90) days prior to the end of such Initial Term or Additional Term. Notwithstanding the foregoing, in the event the warning letter sanctions pursuant to Form 483 or current GMP regulations have not been removed by June 30, 2003 or in the event the Akorn has not received validation from the FDA with respect to Processing NeoPharm's Products by such date, NeoPharm may terminate this Agreement upon written notice to Akorn.

Section 5.2. Voluntary Termination. NeoPharm or Akorn may terminate this Agreement for any reason, provided that the terminating party first serves written notice of such termination on the other party no later than one hundred eighty (180) days prior to the date of such termination. Notwithstanding the foregoing, Akorn shall not have the right to voluntarily terminate this Agreement until the Note has been paid in full and for two (2) years thereafter.

Section 5.3. Termination for Material Breach. Either party may terminate this Agreement in the event of a material breach by the other, provided that the party asserting such

breach first serves written notice of the alleged breach on the offending party and such alleged breach is not cured within thirty (30) days of the offending party's receipt of such notice.

Section 5.4. Termination for Rejected Finished Products. NeoPharm may terminate this Agreement upon written notice to Akorn in the event NeoPharm property rejects three (3) consecutive Batches of Finished Product or six (6) Batches of Finished Product within a two (2) month period.

Section 5.5. Termination for Insolvency. In the event that either party shall admit in writing that it can not pay its debts, or shall suspend its business, or shall file a voluntary petition or any answer admitting the jurisdiction of the court and the material allegations of, or shall consent to, an involuntary petition pursuant to or purporting to be pursuant to any reorganization or insolvency law of any jurisdiction, or shall make an assignment for the benefit of creditors, or shall apply for or consent to the appointment of a receiver or trustee of all or a substantial part of its property (such party, upon the occurrence of any such event, a "Bankrupt Party"), then, to the extent permitted by the law, the other party hereto may thereafter immediately terminate this Agreement by giving notice of termination to the Bankrupt Party.

Section 5.6. Effect of Expiration or Termination. Upon termination or expiration of this Agreement, neither party shall have any further obligations to the other party except for those obligations which accrued prior to the date of termination or those obligations which are intended to survive the termination or expiration of this Agreement.

Section 5.7. Akorn Obligations Upon Expiration or Termination. Upon the expiration of this Agreement or its earlier termination, Akorn shall, at the request of NeoPharm and at NeoPharm's expense, return or dispose of all Bulk Product or Finished Product to NeoPharm or to a third party pursuant to the instructions of NeoPharm.

ARTICLE VI
INDEMNIFICATION

Section 6.1. Akorn Indemnity. Akorn agrees to indemnify, protect and defend NeoPharm and hold NeoPharm harmless from and against any claims, damages, liability, harm, loss, costs, penalties, lawsuits, threats of lawsuit, recalls or other governmental action, including reasonable attorneys' fees, brought or claimed by any third party which (i) arise as the result of Akorn's breach of this Agreement or of any warranty or representation made to NeoPharm under this Agreement; or (ii) which result from any claim made against NeoPharm in connection with Akorn's manufacture of defective Finished Product for NeoPharm. Upon the filing of any such legal claim or lawsuit against NeoPharm, NeoPharm

shall promptly notify Akorn, in writing, of any such claim and Akorn shall, at its expense, with attorneys reasonably acceptable to NeoPharm, handle, defend and control such claim or lawsuit. Failure to notify Akorn promptly of the commencement of any such action, if prejudicial to the ability to defend such action, shall

relieve Akorn of any liability to NeoPharm under this Section 6.1. NeoPharm shall have the right to participate in the defense of such action at its expense with counsel of its choosing.

Section 6.2. NeoPharm Indemnity. NeoPharm agrees to indemnify, protect and defend Akorn and hold Akorn harmless from and against any claims, damages, liabilities, harm, loss, costs, penalties, lawsuits, threats of lawsuit, recalls or other governmental action, including reasonable attorneys' fees, brought or claimed by any third party, which (i) arise out of NeoPharm's breach of this Agreement or of any warranty or representation to Akorn under this Agreement; or (ii) result from the negligent acts or willful malfeasance on the part of NeoPharm or employees or agents, in connection with NeoPharm's sale, marketing or distribution of Product manufactured by Akorn or other activities or actions in connection with the Finished Product. Upon the filing of any such legal claim or lawsuit against Akorn, Akorn shall promptly notify NeoPharm, in writing, of any such claim and NeoPharm shall, at its expense, with attorneys reasonably acceptable to Akorn, handle, defend and control such claim or lawsuit. Failure to notify NeoPharm promptly of the commencement of any such action, if prejudicial to the ability to defend such action, shall relieve NeoPharm of any liability to Akorn under this Section 6.2. Akorn shall have the right to participate in the defense of such action at its expense with counsel of its choosing.

ARTICLE VII
RIGHT OF FIRST REFUSAL

Section 7.1. Grant of Rights. Akorn agrees that in the event it receives a bona fide third party offer (an "Offer") to acquire the Facility from an unrelated third party (exclusive of an offer to acquire a controlling interest in the outstanding shares of stock or substantially all of the assets of Akorn), it shall provide NeoPharm with written notice of the terms and conditions of such Offer.

Section 7.2. Right of First Refusal. Upon its receipt of the notice contemplated by Section 7.1, NeoPharm shall have the right to acquire the Facility on the same terms and conditions as are set forth in the Offer (or their cash equivalent in the event the Offer contains consideration other than cash). In order to exercise the foregoing right, NeoPharm must provide Akorn written notice of its exercise within thirty (30) days of its receipt of the written notice from Akorn.

ARTICLE VIII
CONFIDENTIALITY

Section 8.1. Confidential Information. Each party (the "Receiving Party") shall maintain in confidence all information heretofore or hereafter disclosed by the other party (the "Disclosing Party") which such party knows or has reason to know is a trade secret, and other proprietary information owned by or licensed to the other party, including, but not limited to,

information relating to the Product (including without limitation, information developed in preclinical and clinical studies) and licenses, patents, patent applications, technology or processes and business plans of the other party, including, without limitation, information designated as confidential in writing from one party to the other (all of the foregoing hereinafter referred to as "Confidential Information") and shall not use such Confidential Information except as permitted by this Agreement or disclose the same to anyone other than those of its officers, directors or employees as are necessary in connection with such party's activities as contemplated by this Agreement. Each party shall use the same efforts as such party would use to protect its own information and to ensure that its officers, directors and employees do not disclose or make any unauthorized use of such Confidential Information. Each party shall notify the other promptly upon discovery of any unauthorized use or disclosure of the other

party's Confidential Information.

Section 8.2. Limitations on Confidentiality. The obligation of confidentiality contained in this Article VIII shall not apply to the extent that: i) the Receiving Party is required to disclose Confidential Information by applicable law, regulation or order of a governmental agency or a court of competent jurisdiction; ii) the Receiving Party can demonstrate that the disclosed Confidential Information was, at the time of disclosure, already in the public domain other than as a result of actions or failure to act of the Receiving Party, its officers, directors or employees, in violation hereof; iii) the disclosed Confidential Information was rightfully known by the Receiving Party (as shown by its written records) prior to the date of disclosure to the Receiving Party in connection with this Agreement; or iv) the disclosed Confidential Information was received by the Receiving Party on an unrestricted basis from a source which is not under a duty of confidentiality to the other Party.

Section 8.3. Disclosure Required by Law. In the event that the Receiving Party shall be required to make disclosure pursuant to the provisions of Section 8.2 (i) as a result of the issuance of a court order or other government process, the Receiving Party shall promptly, but in no event more than forty-eight (48) hours after learning of such court order or other government process, notify, by personal delivery or facsimile, all pursuant to Section 9.4 hereof, the Disclosing Party and, at the Disclosing Party's expense, the Receiving Party shall: a) take all reasonably necessary steps requested by the Disclosing Party to defend against the enforcement of such court order or other government process, and b) permit the Disclosing Party to intervene and participate with counsel of its choice in any proceeding relating to the enforcement thereof.

Section 8.4. Equitable Remedies for Breach of Confidentiality. The parties acknowledge that their failure to comply with the provisions of Section 8.1 may cause irreparable harm and damage to the name and reputation of the other party for which no adequate remedy may be available at law. Accordingly, the parties agree that upon a breach by a party of such provisions, the non-breaching party may, at its option, enforce the obligations of the breaching party under those provisions by seeking equitable remedies in a court of competent jurisdiction.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Force Majeure. Neither of the parties to this Agreement shall be liable to the other party for any loss, injury, delay, damage or other casualty suffered or incurred by such other party due to strikes, lockouts, accidents, fire, delays in manufacture, transportation or delivery of material, embargoes, inability to ship, explosions, floods, war, governmental action or any other cause similar thereto which is beyond the reasonable control of such other party and any failure or delay by a party in the performance of any of its obligations under this Agreement shall not be considered a breach of this Agreement due to, but only so long as there exists, one or more of the foregoing causes; provided, however, that if Akorn cannot complete a Processing Run within ninety (90) days of the stated completion date due to any such cause, NeoPharm may cancel the order without liability to Akorn.

Section 9.2. Status of the Parties. This Agreement shall not be construed to create between the parties hereto or their respective successors or permitted assignees the relationship of principal and agent, joint venturers, copartners or any other similar relationship, the existence of which is hereby expressly denied by each party. Neither party shall be liable to any third party in any way for engagement, obligation, contract, representation or transaction or for any negligent act or omission to act of the other except as expressly provided.

Section 9.3. Governing Law. The provisions of this Agreement shall be governed in all respects by the laws of the State of Illinois.

Section 9.4. Notice. All notices, proposals, submissions, offers, approvals, agreements, elections, consents, acceptances, waivers, reports, plans, requests, instructions and other communications required or permitted to be made or given hereunder (all of the foregoing hereinafter collectively referred to as "Communications") shall be in writing and shall be deemed to have been duly made or given when: a) delivered personally with receipt acknowledged;

b) sent by registered or certified mail or equivalent, return receipt requested; c) sent by facsimile, cable or telex (which shall promptly be confirmed by a writing sent by registered or certified mail or equivalent, return receipt requested); or d) sent by recognized overnight courier for delivery within twenty-four (24) hours, in each case addressed or sent to the parties at the following addresses and facsimile numbers or to such other or additional address or facsimile as any party shall hereafter specify by Communication to the other parties:

To Akorn: Akorn, Inc.
2500 Millbrook Drive
Buffalo Grove, Illinois 60089-4694
Facsimile No. (847) 279-6123
Attn: Antonio Pera

With a Copy to: Tressler, Soderstrom, Maloney & Priess
2100 Manchester Road, Suite 950

Wheaton, Illinois 60187
Facsimile No.: (630) 668-3003
Attn: William A. Kindorf, III

To NeoPharm: Neopharm, Inc.
150 Field Drive, Illinois 60045
Facsimile No.: (847) 295-8854
Attn: James Hussey

With a Copy to: Ross & Hardies
150 North Michigan Avenue
Chicago, Illinois 60601-7567
Facsimile No.: (312) 750-8600
Attn: Scott Becker

Notice of change of address shall be deemed given when actually received, all other Communications shall be deemed to have been given, received and dated on the earlier of: (i) when actually received or on the date when delivered personally; (ii) one (1) day after being sent by facsimile, cable, telex (each promptly confirmed by a writing as aforesaid) or overnight courier; or (iii) four (4) business days after mailing (except that in the case of any communication given to a person with an address outside the United States, then ten (10) business days after mailing).

Section 9.5. Legal Construction. In case any one or more of the provisions contained in this Agreement shall be invalid or unenforceable in any respect, the validity and enforceability of the remaining provisions contained herein shall not in any way be affected or impaired thereby, and the parties will attempt to agree upon a valid and enforceable provision which shall be a reasonable substitute for such invalid and unenforceable provision in light of the tenor of this Agreement, and, upon so agreeing, shall incorporate such substitute provision in this Agreement.

Section 9.6. Entire Agreement, Modifications, Consents, Waivers. This Agreement, together with the Schedules hereto, contains the entire agreement of the parties with respect to the subject matter hereof. This Agreement may not be modified or amended except by an instrument or instruments in writing signed by the party against whom enforcement of any such modification or amendment is sought. Each party hereto may, by an instrument in writing, waive compliance by the other party hereto with any term or provision of this Agreement to be performed or complied with by such other party. The waiver by either party hereto of a breach of any term or provision of this Agreement shall not be construed as a waiver of any subsequent breach. Neither anything in this Agreement nor the execution or performance hereof shall be deemed to prejudice in any way, and each party hereto expressly reserves, any and all rights, remedies and claims which each party may now or hereafter have against or with respect to the other party or any of such other party's Affiliates, relating to any matter which is not expressly covered by this Agreement.

Section 9.7. Section Headings; Construction. The section headings and titles contained herein are each for reference only and shall not be deemed to

affect the meaning or interpretation of this agreement. The words "hereby", "herein", "herein above", "hereinafter", "hereof" and "hereunder", when used anywhere in this Agreement, refer to this Agreement as a whole and not merely to a subdivision in which such words appear, unless the context otherwise requires. The singular shall include the plural, the conjunctive shall include the disjunctive and the masculine gender shall include the feminine and neuter, and vice versa, unless the context otherwise requires.

Section 9.8. Execution Counterparts. This Agreement may be executed in any number of counterparts and each such duplicate counterpart shall constitute an original, any one of which may be introduced in evidence or used for any other purpose without the production of its duplicate counterpart. Moreover, notwithstanding that any of the parties did not execute the same counterpart, each counterpart shall be deemed for all purposes to be an original, and all such counterparts shall constitute one and the same instrument, binding on all of the parties hereto.

Section 9.9. Binding Effect, Assignment. Neither party may directly or indirectly assign, delegate, encumber or in any other manner transfer any of its rights, remedies, obligations, liabilities or interests in or arising under this Agreement, without the prior consent of the other party, which consent shall not be unreasonably withheld or delayed. Any attempted assignment, delegation, encumbrance or other transfer in violation of this Agreement shall be void and of no effect and shall be a material breach hereof. In the event Akorn sells the Facility to a third party, Akorn agrees that it shall cause such third party to agree in writing to assume Akorn's responsibilities hereunder.

* * * * * * * *

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the day and year first written above.

AKORN, INC.	NEOPHARM, INC.
By:_____	By:_____
Its:_____	Its:_____

Schedule 2.1
Processing Parameters

Schedule 4.1
Processing Fee

20095718.3
12-07-01

SUBORDINATION, STANDBY AND INTERCREDITOR AGREEMENT

WHEREAS, AKORN, INC., a Louisiana corporation (hereinafter, together with its successors and assigns, called "Akorn"), and AKORN (NEW JERSEY), INC., an Illinois corporation ("Akorn NJ"; together with Akorn, the "Borrowers" and each individually a "Borrower") may from time to time hereafter become indebted to the undersigned NEOPHARM, INC., a Delaware corporation (the "Junior Lender"), including, without limitation, indebtedness under the Promissory Note referred to below, and the Borrowers have requested, and may from time to time hereafter request, THE NORTHERN TRUST COMPANY, an Illinois banking corporation (hereinafter, together with its successors and assigns, called the "Bank"), 50 South LaSalle Street, Chicago, Illinois 60675, to make or agree to make loans, advances or other financial accommodations to the Borrowers pursuant to the terms of the Credit Agreement (as hereinafter defined); and

WHEREAS, the Borrowers and the Bank are party to that certain Amended and Restated Credit Agreement dated as of September 15, 1999 (as amended, restated or supplemented from time to time, the "Credit Agreement"; capitalized terms not otherwise defined herein shall have the same meanings herein as in the Credit Agreement); and

WHEREAS, Akorn intends to incur an indebtedness to the Junior Lender in the principal amount of $3,250,000 pursuant to a Promissory Note (the "Subordinated Note"), in the form attached hereto as Schedule A; and

WHEREAS, the Junior Lender is a customer of Akorn and as such will benefit from the continued making of loans, advances and other financial accommodations from the Bank to the Borrowers;

NOW, THEREFORE, to induce the Bank, from time to time, at its option, to make or agree to make loans, advances or other financial accommodations (including, without limitation, renewals or extensions of, or forbearances with respect to, any loans or advances heretofore or hereafter made) to Borrowers, and for other valuable consideration, receipt whereof is hereby acknowledged, the Junior Lender agrees as follows:

1. All obligations of each of the Borrowers, howsoever created, arising or evidenced, whether direct or indirect, absolute or contingent or now or hereafter existing, or due or to become due, are hereinafter called "Liabilities". All Liabilities to the Bank (other than any arising solely by reason of any pledge or assignment made to the Bank pursuant to paragraph 2(c) hereof) are hereinafter called "Senior Liabilities"; and all Liabilities to the Junior Lender, including under the Subordinated Note (including any that may be pledged or assigned to the Bank pursuant to paragraph 2(c) hereof), other than trade payables arising in the usual and ordinary course of business between the Borrowers and the Junior Lender, are hereinafter called "Junior Liabilities"; it being expressly understood and agreed that

the term "Senior Liabilities", as used herein, shall include, without limitation, any and all interest accruing on any of the Senior Liabilities after the commencement of any proceedings referred to in paragraph 4 hereof, notwithstanding any provision or rule of law which might restrict the rights of the Bank, as against the Borrowers or anyone else, to collect such interest.

2. The Junior Lender will, from time to time, (a) promptly notify the Bank of the creation of any Junior Liabilities, and of the issuance of any promissory note or other instrument to evidence any Junior Liabilities, (b) upon request by the Bank, cause any Junior Liabilities which are not evidenced by a promissory note or other instrument of either of the Borrowers to be so evidenced, and (c) if an event of default on any of the Senior Liabilities has occurred and is continuing beyond any applicable grace period, and if there is no written forbearance agreement in effect between Akorn and the Bank relating to such event of default, upon request by the Bank, and as collateral security for all Senior Liabilities, indorse without recourse, deliver and pledge to the Bank any or all promissory notes or other instruments evidencing Junior Liabilities, and otherwise assign to the Bank any or all Junior Liabilities and any or all security therefor and guaranties thereof, all in a manner satisfactory to the Bank.

3. Except as the Bank may hereafter otherwise expressly consent in writing, which consent may be given or withheld by the Bank in its sole and absolute discretion, the payment of all Junior Liabilities shall be postponed and subordinated to the payment in full of all Senior Liabilities, and no payments or other distributions whatsoever in respect of any Junior Liabilities shall be made by either of the Borrowers, or accepted by the Junior Lender, nor shall any property or assets of either of the Borrowers be applied by them, or accepted by the Junior Lender, to or for the purchase or other acquisition or retirement of any Junior Liabilities.

4. In the event of any dissolution, winding up, liquidation, readjustment, reorganization or other similar proceedings relating to any Borrower or its creditors, as such, or to their property (whether voluntary or involuntary, partial or complete, and whether in bankruptcy, insolvency or receivership, or upon an assignment for the benefit of creditors, or any other marshalling of the assets and liabilities of any Borrower, or any sale of all or substantially all of the assets of any Borrower, or otherwise), the Senior Liabilities shall first be paid in full before the Junior Lender shall be entitled to receive and to retain any payment or distribution in respect of the Junior Liabilities, and, in order to implement the foregoing, (a) all payments and distributions of any kind or character in respect of the Junior Liabilities to which the Junior Lender would be entitled if the Junior Liabilities were not subordinated, or subordinated and pledged or assigned, pursuant to this Agreement shall be made directly to the Bank, (b) the Junior Lender shall promptly file a claim or claims, in the form required in such proceedings, for the full outstanding amount of the Junior Liabilities, and shall cause said claim or claims to be approved and all payments and other distributions in respect thereof to be made directly to the Bank, and (c) the Junior Lender hereby irrevocably agrees that the Bank may, at its sole discretion, in the name of the Junior Lender or otherwise, demand, sue for, collect, receive and receipt for any and all such payments

or distributions, and file, prove, and vote or consent in any such proceedings with respect to, any and all claims of the Junior Lender relating to the Junior Liabilities.

5. In the event that the Junior Lender receives any payment or other distribution of any kind or character from any Borrower or from any other source whatsoever in respect of any of the Junior Liabilities, other than as expressly permitted by the terms of this Agreement, such payment or other distribution shall be received in trust for the Bank and promptly turned over by the Junior Lender to the Bank. The Junior Lender will mark its books and records, and cause the applicable Borrower to mark its books and records, so as to clearly indicate that the Junior Liabilities are subordinated in accordance with the terms of this Agreement, and will cause to be clearly inserted in any promissory note or other instrument which at any time evidences any of the Junior Liabilities a statement to the effect that the payment thereof is subordinated in accordance with the terms of this Agreement. The Junior Lender will execute such further documents or instruments and take such further action as the Bank may reasonably from time to time request to carry out the intent of this Agreement.

6. All payments and distributions received by the Bank in respect of the Junior Liabilities, to the extent received in or converted into cash, may be applied by the Bank first to the payment of any and all expenses (including attorneys fees and legal expenses) paid or incurred by the Bank in enforcing this Agreement or in endeavoring to collect or realize upon any of the Junior Liabilities or any security therefor, and any balance thereof shall, solely as between the Junior Lender and the Bank, be applied by the Bank, in such order of application as the Bank may from time to time select, toward the payment of the Senior Liabilities remaining unpaid; but, as between any Borrower and its respective creditors, no such payments or distributions of any kind or character shall be deemed to be payments or distributions in respect of the Senior Liabilities; and, notwithstanding any such payments or distributions received by the Bank in respect of the Junior Liabilities and so applied by the Bank toward the payment of the Senior Liabilities, the Junior Lender shall be subrogated to the then existing rights of the Bank, if any, in respect of the Senior Liabilities only at such time as this Agreement shall have been discontinued and the Bank shall have received payment of the full amount of the Senior Liabilities, as provided for in paragraph 11 hereof.

7. Notwithstanding anything to the contrary contained in the Subordinated Note, until such time as this Agreement shall have been discontinued and the

Bank shall have received payment of the full amount of the Senior Liabilities, as provided for in paragraph 11 hereof, no action or inaction by either of the Borrowers shall be deemed to be in violation of the provisions contained in Article 5 of the Subordinate Note if such action or inaction either (i) is not in violation of any of the provisions of the Credit Agreement, or (ii) has been consented to in writing by the Bank.

8. The Junior Lender hereby waives: (a) notice of acceptance by the Bank of this Agreement; (b) notice of the existence or creation or non-payment of all or any of the Senior Liabilities; and (c) all

diligence in collection or protection of or realization upon the Senior Liabilities or any thereof or any security therefor.

9. The Junior Lender will not without the prior written consent of the Bank: (a) cancel, waive, forgive, transfer or assign, or attempt to enforce or collect, or subordinate to any Liabilities other than the Senior Liabilities, any Junior Liabilities or any rights in respect thereof; (b) take any collateral security for any Junior Liabilities; or (c) commence, or join with any other creditor in commencing, any bankruptcy, reorganization or insolvency proceedings with respect to any Borrower.

10. This Agreement shall in all respects be a continuing agreement and shall remain in full force and effect (notwithstanding, without limitation, the dissolution of the Junior Lender or that at any time or from time to time all Senior Liabilities may have been paid in full), subject to discontinuance only upon receipt by the Bank of payment in full of all Senior Liabilities and termination of any and all commitments by the Bank to extend credit to either of the Borrowers.

11. The Bank may, from time to time, whether before or after any discontinuance of this Agreement, at its sole discretion and without notice to the Junior Lender, take any or all of the following actions: (a) retain or obtain a security interest in any property to secure any of the Senior Liabilities, (b) retain or obtain the primary or secondary obligation of any other obligor or obligors with respect to any of the Senior Liabilities, (c) extend or renew or forbear for one or more periods (whether or not longer than the original period), alter or exchange any of the Senior Liabilities, or release or compromise any obligation of any nature of any obligor with respect to any of the Senior Liabilities, and (d) release its security interest in, or surrender, release or permit any substitution or exchange for, all or any part of any property securing any of the Senior Liabilities, or extend or renew or forbear for one or more periods (whether or not longer than the original period) or release, compromise, alter or exchange any obligations of any nature of any obligor with respect to any such property.

12. The Bank may, from time to time, whether before or after any discontinuance of this Agreement, without notice to the Junior Lender, assign or transfer any or all of the Senior Liabilities or any interest therein; and, notwithstanding any such assignment or transfer or any subsequent assignment or transfer thereof, such Senior Liabilities shall be and remain Senior Liabilities for the purposes of this Agreement, and every immediate and successive assignee or transferee of any of the Senior Liabilities or of any interest therein shall, to the extent of the interest of such assignee or transferee in the Senior Liabilities, be entitled to the benefits of this Agreement to the same extent as if such assignee or transferee were the Bank; provided, however, that, unless the Bank shall otherwise consent in writing, the Bank shall have an unimpaired right, prior and superior to that of any such assignee or transferee, to enforce this Agreement, for the benefit of the Bank, as to those of the Senior Liabilities which the Bank has not assigned or transferred.

13. The Bank shall not be prejudiced in its rights under this Agreement by any act or failure to act of any Borrower or the Junior Lender, or any noncompliance of any Borrower or the Junior Lender with any agreement or obligation, regardless of any knowledge thereof which the Bank may have or with which the Bank may be charged; and no action of the Bank permitted hereunder shall in any way affect or impair the rights of the Bank and the obligations of the Junior Lender under this Agreement.

14. No delay on the part of the Bank in the exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Bank of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon the Bank except as expressly set forth in a writing duly signed and delivered on behalf of the Bank. For the purposes of this Agreement, Senior Liabilities shall include all obligations of each of the Borrowers to the Bank, notwithstanding any right or power of either Borrower or anyone else to assert any claim or defense as to the invalidity or unenforceability of any such obligation, and no such claim or defense shall affect or impair the agreements and obligations of the Junior Lender hereunder.

15. This Agreement shall be binding upon the Junior Lender and upon the heirs, legal representatives, successors and assigns of the Junior Lender; and, to the extent that either Borrower or the Junior Lender is either a partnership or a corporation, all references herein to such Borrower and to the Junior Lender, respectively, shall be deemed to include any successor or successors, whether immediate or remote, to such partnership or corporation. If more than one party shall execute this Agreement, the term "undersigned" as used herein shall mean all parties executing this Agreement and each of them, and all such parties shall be jointly and severally obligated hereunder.

16. This Agreement shall be construed in accordance with and governed by the laws of the State of Illinois. Wherever possible each provision of this Agreement shall be interpreted in such manner as to be effective and valid under applicable law, but if any provision of this Agreement shall be prohibited by or invalid under such law, such provision shall be ineffective to the extent of such prohibition or invalidity, without invalidating the remainder of such provision or the remaining provisions of this Agreement.

17. THE JUNIOR LENDER HEREBY IRREVOCABLY WAIVES, TO THE FULLEST EXTENT PERMITTED BY LAW, ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT OR THE TRANSACTIONS CONTEMPLATED HEREBY. THE JUNIOR LENDER HEREBY ABSOLUTELY AND IRREVOCABLY CONSENTS AND SUBMITS TO THE JURISDICTION OF THE COURTS OF THE STATE OF ILLINOIS HAVING SITUS IN COOK COUNTY, ILLINOIS OR THE UNITED STATES OF AMERICA FOR THE NORTHERN DISTRICT OF ILLINOIS IN CONNECTION WITH ANY SUITS, ACTIONS OR PROCEEDINGS BROUGHT AGAINST THE JUNIOR LENDER BY THE BANK ARISING OUT OF OR RELATING TO

THIS AGREEMENT, AND IRREVOCABLY AGREES THAT ALL CLAIMS IN RESPECT OF ANY SUCH SUIT, ACTION OR PROCEEDING MAY BE HEARD AND DETERMINED IN ANY SUCH COURT. THE JUNIOR LENDER HEREBY WAIVES AND AGREES NOT TO ASSERT IN SUCH SUIT, ACTION OR PROCEEDING, IN EACH CASE, TO THE FULLEST EXTENT PERMITTED BY APPLICABLE LAW, ANY CLAIM THAT (A) THE JUNIOR LENDER IS NOT PERSONALLY SUBJECT TO THE JURISDICTION OF ANY SUCH COURT; (B) THE JUNIOR LENDER IS IMMUNE FROM SUIT OR ANY LEGAL PROCESS (WHETHER THROUGH SERVICE OR NOTICE, ATTACHMENT PRIOR TO JUDGMENT, ATTACHMENT IN AID OF EXECUTION, EXECUTION OR OTHERWISE) WITH RESPECT TO IT OR ITS PROPERTY; (C) ANY SUCH SUIT, ACTION OR PROCEEDING IS BROUGHT IN AN INCONVENIENT FORUM; (D) THE VENUE OF ANY SUCH SUIT, ACTION OR PROCEEDING IS IMPROPER; OR (E) THIS AGREEMENT MAY NOT BE ENFORCED IN OR BY ANY SUCH COURT. NOTHING CONTAINED HEREIN SHALL AFFECT ANY RIGHT THAT THE BANK MAY HAVE TO BRING ANY SUIT, ACTION OR PROCEEDING RELATING TO THIS AGREEMENT AGAINST THE JUNIOR LENDER OR ITS PROPERTY IN THE COURTS OF ANY OTHER JURISDICTION.

[SIGNATURE PAGE(S) AND EXHIBIT(S),
IF ANY, FOLLOW THIS PAGE]

IN WITNESS WHEREOF, this Agreement has been made and delivered at Chicago, Illinois as of the_____day of December, 2001.

NEOPHARM, INC.

By_____
Name:
Title:

ACCEPTED December_____, 2001

THE NORTHERN TRUST COMPANY

By_____
Title:

ACKNOWLEDGMENT OF SUBORDINATION

The Borrowers each hereby acknowledge receipt of a copy of the foregoing Subordination, Standby and Intercreditor Agreement, waive notice of acceptance thereof by the Bank, and agree to be bound by the terms and provisions thereof, to make no payments or distributions contrary to the terms and provisions thereof, and to do every other act and thing necessary or appropriate to carry out such terms and provisions. In the event of any violation of any of the terms and provisions of the foregoing Subordination and Standby Agreement, then, at the election of the Bank, any and all obligations of each of the Borrowers to the Bank shall forthwith become due and payable and any and all agreements of the Bank to make loans, advances or other financial accommodations to the Borrowers, or to forbear from exercising remedies, shall forthwith terminate, notwithstanding any provisions thereof to the contrary.

Dated as of December_____, 2001 AKORN, INC.

By_____
Name:
Title:

Dated as of December_____, 2001 AKORN (NEW JERSEY), INC.

By_____
Name:
Title:

SCHEDULE A

PROMISSORY NOTE

Exhibit 10.20

SUBORDINATION AND INTERCREDITOR AGREEMENT

THIS SUBORDINATION AND INTERCREDITOR AGREEMENT (this "Agreement") is made and entered into as of this 20th day of December, 2001, by John N. Kapoor, as Trustee under THE JOHN N. KAPOOR TRUST, dated September 20, 1989 (the "Junior Party") and NEOPHARM, INC., a Delaware corporation (the "Lender").

R E C I T A L S:

A. The Lender and Akorn, Inc., a Louisiana corporation (the "Borrower"), have entered into that certain Processing Agreement, of even date herewith (the "Processing Agreement"), and, in connection therewith, Borrower executed and delivered that certain Promissory Note, of even date herewith (the "Promissory Note"), evidencing a loan made by Lender to Borrower, as of the date hereof, in aggregate principal amount of THREE MILLION TWO HUNDRED FIFTY THOUSAND DOLLARS (US$3,250,000.00), plus accrued but unpaid interest (the "Lender Debt").

B. On July 13, 2001, the Borrower and the Junior Party entered into that certain Convertible Bridge Loan and Warrant Agreement (the "Junior Agreement"), pursuant to which the Junior Party made certain loans to Borrower in aggregate principal amount of FIVE MILLION AND 00/100 DOLLARS ($5,000,000.00), plus accrued interest thereon (the aforementioned loans, accrued interest thereon and any other loans made by the Junior Party to the Borrower (excluding any consulting fee, chairman's fee and expense reimbursement, whether or not deferred, owed by Borrower to the Junior Party or any entity controlled by the Junior Party), presently outstanding or made in the future, to be collectively referred to as the "Junior Debt"). In connection with the consummation of the Junior Agreement, the Junior Party entered into a Subordination Agreement, of even date therewith, whereby the Junior Party agreed to subordinate the Junior Debt to all outstanding debt owed by Borrower to The Northern Trust Company ("Northern Trust"), Borrower's senior lender, under the terms of an Amended and Restated Credit Agreement, as most recently amended by that certain Forbearance Agreement, dated July 13, 2001, by and among Northern Trust, the Borrower and the Borrower's wholly-owned subsidiary, Akorn (New Jersey), Inc, an Illinois corporation.

C. Lender was unwilling to enter into the Processing Agreement or provide Borrower with the Lender Debt unless the Junior Party entered into this Subordination and Intercreditor Agreement.

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is hereby agreed as follows:

1. Recitals. The Recitals of this Agreement are incorporated herein and made a part hereof by this reference thereto.

2. Junior Debt Subordinate to Lender Debt. The Junior Debt is hereby, and shall continue to be, subject and subordinate in lien and in payment to the lien and payment of the Lender Debt and any other document evidencing, securing or guaranteeing the Lender Debt without regard to the application of such proceeds together with all interest, late fees, default interest, future principal advances and all other sums due under the Promissory Note. The

foregoing shall apply notwithstanding the actual date and time of execution, delivery, recordation, filing or perfection of the Lender Debt or the Junior Debt, or the lien or priority of payment thereof.

Until all Lender Debt shall have been paid in full, the Junior Party shall not, directly or indirectly, demand or accept from the Borrower nor cancel or otherwise discharge all or any part of the Junior Debt, and the Junior Party shall not otherwise take or permit any action prejudicial to or inconsistent with the Lender's priority position over the Junior Party created by this Agreement. Excluded from the provisions of this paragraph 2 are the conversion rights under the Junior Debt of principal and interest to an equity interest in Borrower.

3. Allocation of Collateral During Bankruptcy, Etc. In the event of (a) any proceeding under the Bankruptcy Code or other applicable federal or state insolvency law relative to the Borrower, or (b) any liquidation, dissolution or other winding up of the Borrower, whether voluntary or

involuntary and whether or not involving insolvency or bankruptcy, or (c) any assignment for the benefit of creditors or any other marshaling of assets and liabilities of the Borrower, then and in any such event, the Lender shall be entitled to receive payment in full in cash of all amounts due or to become due on or in respect of the Lender Debt, and to that end the Lender shall be entitled to receive as collateral therefor, any payment or distribution of any kind or character, whether in cash, property or securities which may be payable or deliverable to the Junior Party in such proceeding, dissolution, liquidation or other winding up or event until the Lender Debt is fully repaid and discharged.

In the event that, notwithstanding the foregoing provisions of this Section 3, the Junior Party shall have received any cash or assets of any kind from Borrower as payment for the Junior Debt or to secure, guarantee or discharge all or any part of the Junior Debt before all Lender Debt is paid in full, then and in such event such cash or assets shall be delivered forthwith to the Lender or, if required by law, the trustee in bankruptcy, receiver, custodian, assignee, agent or other person making payment or distribution of assets of the Borrower as collateral for the Lender Debt remaining unpaid, to the extent necessary to pay all the Lender Debt in full, after giving effect to any concurrent payment or distribution to or for the Lender.

4. Certain Matters Relating to Bankruptcy. The Junior Party hereby waives any objection it may have to the use of cash collateral or the financing of the Borrower pursuant to either Section 363 or Section 364, including, without limitation, Section 364(d), of the Bankruptcy Code. Notice of a proposed financing or use of cash collateral shall be deemed given upon the sending of such notice by telegraph, telecopy or hand delivery to the Junior Party at address indicated on the signature page attached hereto. All allocations of payments between the Lender and the Junior Party, subject to any court order, continue to be made after the filing of a petition under the Bankruptcy Code on the same basis that the payments were to be allocated prior to the date of such filing. To the extent that the Lender receives payments on the Lender Debt which are subsequently invalidated, declared to be fraudulent or preferential, set aside and/or required to be repaid to a trustee, receiver or any other party under any bankruptcy law, state or federal law, common law, or equitable cause, then, to the extent of such payment or proceeds received, the Lender Debt, or part thereof, intended to be satisfied shall be reinstated and continue in full force and effect as if such payments or proceeds had not been received by the Lender.

5. Continuing Nature of Subordination. This Agreement shall be effective and may not be terminated or otherwise revoked by the Junior Party until the Lender Debt shall have been fully repaid and discharged and all financing arrangements between the Borrower and the Lender under the Promissory Note as amended from time to time, have been terminated. If the Junior Party shall have any right under applicable law to terminate or revoke this Agreement which right cannot be waived, such termination or revocation shall not be effective until written notice of such termination or revocation, signed by the Junior Party, is delivered to the Lender pursuant to the provisions of Section 10, provided, however, that no such notice of termination or revocation shall affect or impair any of the agreements and obligations of the Junior Party hereunder with respect to any and all Lender Debt existing prior to the time of receipt of such notice by the Lender, any and all Lender Debt created or acquired thereafter pursuant to any previous commitments made by the Lender under the Promissory Note, any and all extensions or renewals of any of the foregoing, any and all interest accruing on any of the foregoing, and any and all expenses paid or incurred by the Lender in endeavoring to collect or realize upon any of the foregoing; and all of the agreements and obligations of the Junior Party under this Agreement shall, notwithstanding any such notice of termination or revocation, remain fully in effect until such Lender Debt (including any extensions or renewals thereof and all such interest and expenses) shall have been paid in full.

The Junior Party agrees that the Lender shall be entitled to manage and supervise the Lender's loans to the Borrower in accordance with applicable law, the terms of the Promissory Note and the Lender's usual practices, modified from time to time as the Lender deems appropriate under the circumstances, without regard to the existence of any rights that the Junior Party may now or hereafter have and that the Lender shall have no liability to the Junior Party for, and Junior Party hereby waives any claim which the Junior Party may now or hereafter have against, the Lender arising out of any and all actions which the

Lender, in good faith, takes or omits to take with respect to the Promissory Note or any other agreement related thereto or to the collection of the Lender Debt.

6. Information Concerning Financial Condition of the Borrower. The Junior Party hereby assumes responsibility for keeping itself informed of the financial condition of Borrower and of all other circumstances bearing upon the risk of nonpayment of the Lender Debt that diligent inquiry would reveal, and the Junior Party hereby agrees that the Lender shall have no duty to advise the Junior Party of information known to the Lender regarding such condition or any such circumstances except as set forth below.

7. Assignment; Refinancing. The Junior Agreement and the rights and obligations therein may be sold, assigned or transferred by the Junior Party to an entity controlled by the Junior Party, to members of the immediate family of the Junior Party, or to trusts, partnerships, S-corporations or other beneficiaries of the Junior Party. In the event of such transfer, the assignee shall become subject to the terms of this Agreement. Except for such transfers described above, the Junior Party shall not sell, assign or otherwise transfer any interest in the Junior Agreement without the prior written consent of the Lender, which consent shall not be unreasonably withheld.

8. Covenants and Assurances. The Junior Party shall (a) provide the Lender with a copy of any and all notices of default, event of default or acceleration which the Junior Party gives Borrower under or in connection with the Junior Agreement or Junior Debt, which notices to the Lender shall be given at the same time as the Junior Party gives such notices to the

Borrower, and (b) upon the request of Lender, execute and deliver to the Lender such other documents and assurances and do or cause to be done all such other acts and things as may be reasonably required by the Lender in order to give effect to this Agreement.

The Lender shall provide the Junior Party with a copy of any and all notices of default, events of default or acceleration which the Lender gives Borrower under or in connection with the Lender Debt, which notices to the Junior Party shall be given at the same time Lender gives such notices to the Borrower.

9. Waivers, Etc. No delay on the part of the Lender in its respective exercise of any right or remedy shall operate as a waiver thereof, and no single or partial exercise by the Lender of any right or remedy shall preclude other or further exercise thereof or the exercise of any other right or remedy; nor shall any modification or waiver of any of the provisions of this Agreement be binding upon the Lender or Junior Party except as expressly set forth in a writing duly signed and delivered on behalf of the Lender.

10. Notices. Any notice or other communication to any party in connection with this Agreement shall be in writing and shall be sent by manual delivery, facsimile transmission, overnight courier or United States mail certified mail, return receipt requested (postage prepaid) addressed to such party at the address specified on the signature page hereof, or at such other address as such party shall have specified to the other party hereto in writing. All periods of notice shall be measured from the date of delivery thereof if manually delivered, from the date of sending thereof if sent by facsimile transmission, from the first business day after the date of sending if sent by overnight courier, or from four days after the date of mailing if mailed; provided, however, that any notice to the Lender shall be deemed to have been given only when received by the Lender.

11. Governing Law and Construction. The validity, construction and enforceability of this Agreement shall be governed by the internal laws of the State of Illinois, without giving effect to conflict of laws principles thereof.

12. Consent to Jurisdiction. AT THE OPTION OF THE LENDER, THIS AGREEMENT MAY BE ENFORCED IN ANY FEDERAL COURT OR ILLINOIS STATE COURT SITTING IN COOK COUNTY, ILLINOIS; AND THE BORROWER AND JUNIOR PARTY EACH CONSENT TO THE JURISDICTION AND VENUE OF ANY SUCH COURT AND WAIVE ANY ARGUMENT THAT VENUE IN SUCH FORUMS IS NOT CONVENIENT. IN THE EVENT THE BORROWER OR JUNIOR PARTY COMMENCE ANY ACTION IN ANOTHER JURISDICTION OR VENUE UNDER ANY TORT OR CONTRACT THEORY ARISING DIRECTLY OR INDIRECTLY FROM THE RELATIONSHIP CREATED BY THIS AGREEMENT, THE LENDER AT ITS OPTION SHALL BE ENTITLED TO HAVE THE CASE

TRANSFERRED TO ONE OF THE JURISDICTIONS AND VENUES ABOVE-DESCRIBED, OR IF SUCH TRANSFER CANNOT BE ACCOMPLISHED UNDER APPLICABLE LAW, TO HAVE SUCH CASE DISMISSED WITHOUT PREJUDICE.

13. Waiver of Jury Trial. BORROWER AND JUNIOR PARTY IRREVOCABLY WAIVE ANY AND ALL RIGHT TO TRIAL BY JURY IN ANY LEGAL PROCEEDING ARISING OUT OF OR RELATING TO THIS AGREEMENT AND ANY

OTHER LOAN DOCUMENTS OR THE TRANSACTIONS CONTEMPLATED HEREBY OR THEREBY.

14. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of Borrower, the Junior Party and the Lender.

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

IN WITNESS WHEREOF, the parties hereto have executed, or caused this agreement to be executed by the respective officers thereunto duly authorized, as of the day and year first above written.

John N. Kapoor, as Trustee under
THE JOHN N. KAPOOR TRUST,
Dated September 20, 1989

By: _____
Its: _____

Address: _____
_____
Fax No.: _____
Attn: John Kapoor

NEOPHARM, INC., a Delaware corporation

By: _____
Its: President and Chief Executive Officer

Address: 150 Field Drive, Suite 195
Lake Forest, Illinois 60045
Attn: President and Chief Executive Officer
Fax No.: (847) 295-8854

Acknowledged and Agreed by:

AKORN, INC., a Louisiana corporation

By: _____
Its: _____

Address: Akorn, Inc.
2500 Millbrook Drive
Buffalo Grove, IL 60089-4694
Facsimile No. (847) 279-6123
Attn: Ben Pothast

Exhibit 10.21

December 10, 2001

To: Akorn, Inc.
Akorn (New Jersey), Inc.

Re: Proposed Loan from NeoPharm, Inc.

Gentlemen:

Reference is made to (i) the Forbearance Agreement dated as of July 12, 2001 (the "Forbearance Agreement"), by and among Akorn, Inc., a Louisiana corporation, Akorn (New Jersey), Inc., an Illinois corporation, and The Northern Trust Company, an Illinois banking corporation, and (ii) the "Credit Agreement" (as defined in the Forbearance Agreement). All capitalized terms used and not otherwise defined herein shall have the same meanings as in the Credit Agreement.

You have advised us that the Borrowers propose to (i) obtain a loan from NeoPharm, Inc., a Delaware corporation ("NeoPharm"), in the principal amount of $3,250,000 (the "NeoPharm Loan"), pursuant to a Promissory Note in the form attached hereto as Exhibit A (the "NeoPharm Note"), and (ii) expend the proceeds of the NeoPharm Loan for the purpose of undertaking and completing the "Lyophilization Ramp-Up" (as defined in the NeoPharm Note). The NeoPharm Loan would be obtained, and the NeoPharm Note would be executed and delivered, in connection with a Processing Agreement between Akorn and NeoPharm in the form attached hereto as Exhibit B.

The act of Akorn in obtaining and becoming obligated for the NeoPharm Loan, Akorn's execution and delivery of the NeoPharm Note, and Akorn's expenditures for the Lyophilization Ramp-Up will or may constitute a violation of one or more provisions of the Credit Agreement, and will or may cause one or more of the Forbearance Conditions (as defined in the Forbearance Agreement) to fail to be satisfied. You have requested that the Lender waive any such violation of the provisions of the Credit Agreement and any such failure of one or more of such Forbearance Conditions to be satisfied (the "Waiver").

The Lender hereby grants the Waiver, but only on and subject to the following conditions:

(i) The NeoPharm Loan will be on the terms and conditions set forth in the NeoPharm Note.

(ii) Contemporaneously with the execution and delivery of this letter NeoPharm and the Borrowers enter into a Subordination, Standby and Intercreditor Agreement with the Lender in the form attached hereto as Exhibit C (the "NeoPharm Subordination Agreement").

(iii) The Waiver shall be in effect only so long as the NeoPharm Subordination Agreement is in effect and there is no failure on the part of NeoPharm or either of the Borrowers to be in compliance with all of the terms and conditions of the NeoPharm Subordination Agreement.

(iv) The Waiver shall apply only to the specific matters referred to in this letter and shall not extend or relate to any other related or unrelated matters, and neither the granting of the Waiver nor anything contained in this letter shall be construed to obligate the Lender to grant any other waivers to the Borrowers.

(iv) The Borrowers hereby (A) confirm and reaffirm all of their obligations under the "Documents" (as defined in the Forbearance Agreement) and under the Forbearance Agreement; (B) acknowledge and agree that the Lender, by granting the Waiver, does not waive any existing or future default or event of default under any of the Documents or the Forbearance Agreement, or any rights or remedies under any of the Documents or the Forbearance Agreement, except as expressly provided herein; (C) acknowledge and agree that the Lender has not heretofore waived any default or event of default under any of the Documents, or any rights or remedies under any of the Documents, except as provided in the Forbearance Agreement; and (D) acknowledge that they do not have any defense, set-off or counterclaim to the payment or performance of any of their obligations under the Documents or other Forbearance Agreement.

(v) The Borrowers shall expend the proceeds of the NeoPharm Loan solely to pay or reimburse costs incurred in connection with the Lyophilization Ramp-Up, and the Borrowers shall not expend any funds in excess of the proceeds of the NeoPharm Loan on the Lyophilization Ramp-Up.

(vi) The Borrowers shall provide the Bank with reports no less often than once during each of the periods ending on the 15th day and the last day of each calendar month, commencing with the month of December, 2001, as to the progress of Lyophilization Ramp-Up, including, without limitation, information concerning the budget and time schedule and changes to the budget and time schedule for the Lyophilization Ramp-Up, contracts and commitments entered into, and payments made and scheduled to be made. To the extent that the Lyophilization Ramp-Up involves payment for labor, materials or property the furnishing of which could give rise to mechanics lien claims against the premises commonly known as 1222 West Grand, Decatur, Illinois, the Borrower shall make such payment only in exchange for waivers and releases of such mechanics lien claims, and at the time of making each such payment, the Borrowers shall furnish to the Bank a date down endorsement to Chicago Title Insurance Company Policy No. 120090185 insuring the Bank's mortgage on such property, covering the date of such payment and raising no exception for mechanics lien claims.

If the foregoing terms are acceptable to you, please so indicate by signing below.

Very truly yours,

THE NORTHERN TRUST COMPANY

/s/ Olga Georgiov

Olga Georgiov
Vice President

Exhibit 10.22

SUPPLY AGREEMENT

THIS SUPPLY AGREEMENT (the "Agreement") is entered into as of January 4, 2002, by and between AKORN, INC. a Louisiana corporation with its principal offices at 2500 Millbrook Drive, Buffalo Grove, Illinois 60089 ("AKORN") and NOVADAQ TECHNOLOGIES, INC., a Canadian corporation with its principal place of business at 924 The East Mall, Suite 100, Toronto, Canada M9B 6K1 ("NOVADAQ"). AKORN and NOVADAQ may each be referred to herein individually as a "Party" and collectively as the "Parties."

In consideration of the mutual premises, covenants and conditions contained in this Agreement, the Parties agree as follows:

1. DEFINITIONS

As used in this Agreement, the following terms shall have the following respective meanings:

"ACCEPTABLE PRODUCT" shall have the meaning set forth in Section 5.1 hereof.

"AFFILIATE" shall mean, in the case of either Party, any corporation, joint venture, or other business entity, which directly or indirectly controls, is controlled by, or is under common control with that Party. "Control", as used in this definition, shall mean having the power to direct, or cause the direction of, the management and policies of an entity, whether through ownership of voting securities, by contract or otherwise. Notwithstanding the foregoing, for purposes of this Agreement, the term "Affiliate" shall not include subsidiaries in which a Party or its Affiliates owns a majority of the ordinary voting power to elect a majority of the board of directors but is restricted from electing such majority by contract or otherwise, until such time as such restrictions are no longer in effect.

"AKORN KNOW-HOW" shall mean all proprietary technical and clinical information, data and know-how relating to the manufacture of the Product, whether or not patentable, owned or controlled, as of the Effective Date or acquired during the term of this Agreement, by AKORN or its Affiliates. AKORN Know-How shall include, without limitation, all processes, formulas, discoveries and inventions whether relating to biological, chemical, pharmacological, toxicological, pharmaceutical, physical and analytical safety or quality control data. The term "AKORN Know-How", however, shall not include (i) any know-how, processes, information and data which is, as of the Effective Date or later becomes, generally available to the public or (ii) any general manufacturing know-how not specific to the Product.

"CALENDAR QUARTER" shall mean the respective periods of three (3) consecutive calendar months ending on March 31, June 30, September 30 or December 31, for so long as this Agreement is in effect.

"CERTIFICATE OF ANALYSIS" shall mean the certificate for each batch of Product delivered hereunder in the form contemplated by Section 3.1 of this Agreement.

"cGMP" shall mean current good manufacturing practices of the FDA, including compliance with the FD&C Act, 21 C.F.R. parts 210 and 211 and all applicable FDA rules, regulations, policies and guidelines in effect at a given time.

"COMMERCIALLY REASONABLE EFFORTS" shall mean efforts and resources normally used by a Party for a compound or product owned by it or to which it has rights, which is of similar market potential at a similar stage in its product life, taking into account the competitiveness of the marketplace, the proprietary position of the compound or product, the regulatory structure involved, the profitability of the applicable products, and other relevant factors.

"DOLLARS" AND "$" shall mean lawful money of the United States unless otherwise indicated.

"EFFECTIVE DATE" shall mean January 4, 2002.

"FDA" shall mean the United States Food and Drug Administration, and any successor thereto.

"FD&C ACT" shall mean the United States Federal Food, Drug and Cosmetic Act, as amended.

"HPB" shall mean the Health Protection Branch of Health Canada or any successor or replacement entities thereof.

"GOVERNMENTAL BODY" shall mean (i) any domestic or foreign national, federal, provincial, state, municipal or other government or body, (ii) any international or multilateral body, (iii) any subdivision, ministry, department, secretariat, bureau, agency, commission, board, instrumentality or authority of any of the foregoing governments or bodies, (iv) any quasi-governmental or private body exercising any regulatory, expropriation or taxing authority under or for the account of any of the foregoing governments or bodies, or (v) any domestic, foreign, international, multilateral, or multinational judicial, quasi-judicial, arbitration or administrative court, grand jury, tribunal, commission, board or panel or other regulatory or governmental authority.

"ICG" shall mean indocyanine green complying with the specifications of U.S. Pharmacopoeia 24 and FDA approved NDA.

"INDICATIONS" means NOVADAQ's use of ICG-C for angiography of arteries, carotid arteries, intracranial vasculature, AV fistulas and the peripheral vasculature, for the diagnosis and treatment of age-related macular degeneration utilizing U.S. Patents #5,279,298 and #5,394,199 and all corresponding foreign patents that are licensed by NOVADAQ from Johns Hopkins University, or any other patents and technologies derived from the foregoing patents, outside of the United States ("AMD"), and for such other applications as may be mutually agreed to by the Parties.

"MATERIAL BREACH" means, in the case of AKORN, a breach of subsections 3(i), 3(ii), 3(iii) or 3(iv) of the Settlement and Mutual Release or any failure by AKORN to supply, either directly or through Third Parties, ICG-C in accordance with the terms and conditions of this Agreement, including the specifications, where such failure shall continue for three months and shall not be the result of a Material Breach of this Agreement by NOVADAQ, or an event of force majeure as described in Section 12.1. In

the case of NOVADAQ, "Material Breach" means the failure to make payment or a series of payments of a minimum value of $50,000 or more, subject to the terms of paragraph 12.9 hereof;

"PERMITTED MANUFACTURERS" shall have the meaning set forth in Section 2.2 hereof.

"PRODUCT" or "ICG-C" shall mean a human pharmaceutical product, of which ICG is the sole active ingredient, and which conforms to the Specifications and which is used in accordance with, or for the purposes of, the Regulatory Approvals.

"REGULATORY APPROVALS" shall mean all (i) authorizations by the appropriate Regulatory Authorities which are required for the marketing, promotion, pricing and sale of the Product in the Territory, and (ii) new drug applications ("NDAs") for the use of the Product in the Territory, as applicable, for the Indications.

"REGULATORY AUTHORITY" shall mean any national, supra-national, regional, state or local regulatory agency, department, bureau, commission, council or other governmental entity in the Territory involved in the granting of Regulatory Approval for the Product, including, without limitation, the FDA and the HPB.

"SETTLEMENT AND MUTUAL RELEASE" shall mean the Settlement and Mutual Release between AKORN and NOVADAQ dated January 4, 2002.

"SPECIFICATIONS" shall mean the specifications for or concerning the manufacturing, testing, packaging and shipping of the Product as set forth in the Schedule A hereto, or as may be agreed upon by the Parties in

writing from time to time.

"STORAGE PROTOCOL" shall mean that procedure and protocol prepared by AKORN for the storage of Product, as such procedures and protocols shall be amended from time to time.

"TERM" shall have the meaning set forth in Section 10.1 hereof.

"TERRITORY" shall mean the world, except in the case of NOVADAQ's Use for the treatment of AMD, "Territory" shall mean the world excluding the United States of America.

"THIRD PARTY(IES)" shall mean any person(s) or party(ies) other than AKORN, NOVADAQ or their respective Affiliates.

2. SUPPLY OF PRODUCT

2.1 OBLIGATION TO SUPPLY. Subject to the provisions of this Agreement, after the Effective Date and during the Term of this Agreement, AKORN shall manufacture, or contract with Third Parties to have manufactured, exclusively for and supply to NOVADAQ, Product for use by NOVADAQ, its Affiliates or its permitted sub-licensees in the Territory, and NOVADAQ shall exclusively purchase from AKORN its entire requirements of Product for use in the Territory, in each case for the Indications now or hereafter subject to this Agreement. Prior to the Effective Date, AKORN shall supply NOVADAQ's requirements for ICG-C for all clinical and pre-clinical trials on the same terms as provided herein. All Product supplied under this Agreement is to be supplied in finished form, as specified in NOVADAQ's purchase orders placed with AKORN pursuant to

Section 2.4 below. AKORN acknowledges NOVADAQ's ownership of all rights in and to the Product and agrees not to sell or supply Product to any Third Party without the express written consent of NOVADAQ.

2.2 SUBCONTRACTING. For Product intended by NOVADAQ for sale in the U.S., AKORN may subcontract or assign any part of its manufacturing and supply obligations hereunder to any facility approved by FDA for the manufacture of the Product, provided, however, that AKORN shall notify NOVADAQ prior to transferring any manufacturing and supply obligations to a subcontractor or assignee other than SP Pharmaceutical, Inc. 4272 Ballon Park Road, Albuquerque, NM 87107 or Sigma-Aldrich Fine Chemicals 3050 Spruce St., St. Louis, MO 63103. For Product intended by NOVADAQ for sale outside the U.S., AKORN may subcontract or assign any part of its manufacturing and supply obligations hereunder to any facility approved by the relevant Regulatory Authority for the manufacture of the Product. AKORN shall provide NOVADAQ documentation demonstrating that any subcontractor's or assignee's facility has been approved by the FDA (for Product intended for sale in the U.S.) or the relevant Regulatory Authority (for Product intended for sale outside the U.S.) for the manufacture of the Product.

2.3 FORECASTS.

2.3.1 ROLLING FORECASTS. Throughout the term of this Agreement, NOVADAQ shall provide AKORN with a rolling one (1) year forecast (the "Forecast") of its expected purchases of the Product, the mechanism for which shall be as follows:

(a) On or before the Effective Date, NOVADAQ shall have provided AKORN with a written forecast of its expected purchases of the Product for the period extending three (3) Calendar Quarters beyond the Calendar Quarter containing the Effective Date.

(b) Beginning on the date of the first Calendar Quarter following the Effective Date and then on or prior to the first day of each subsequent Calendar Quarter, NOVADAQ shall provide AKORN with an update to its previously submitted Forecast of its expected purchases of the

Product. Such update shall consist of a repetition of the previously forecasted three (3) Calendar Quarters along with a newly introduced forecast for the Calendar Quarter subsequent to the last Calendar Quarter previously forecasted.

2.3.2 AKORN shall provide sixty (60) days written notice to NOVADAQ in the event AKORN determines that it cannot fill an order or meet a forecast. In the event that AKORN is unable to provide NOVADAQ with its requirement for ICG-C, NOVADAQ may obtain the required quantity from an alternative source, but subject to the Termination provisions

hereof, only until such time as AKORN is able to again provide the required quantity. The inability of AKORN to supply amounts or fill orders exceeding the forecast in any quarter by more than 100% shall not be considered a default or breach of this Agreement.

2.4 SUBMISSION OF PURCHASE ORDERS. From time to time, NOVADAQ shall place orders with AKORN, in a format agreed upon by the Parties, for the purchase of Product, specifying the quantities of the Product desired and the place(s) to which and the manner and dates by which delivery is to be made; said delivery dates to be no earlier than one hundred twenty (120) calendar days after the purchase order date. All purchase orders shall be sent on forms previously reviewed by and jointly approved by the Parties and shall be delivered by NOVADAQ to the following address or as otherwise instructed by AKORN.

Akorn, Inc.
2500 Millbrook Rd.
Buffalo Grove, Illinois
Attn: Director of Materials Management
Fax: (847) 279-6123

Purchase orders made in accordance with the provisions of this Article 2 shall be deemed to be accepted by AKORN if AKORN has not rejected said purchase orders within ten (10) business days of receipt of the same. To the extent the terms of any purchase order or acknowledgment thereof are inconsistent with the terms of this Agreement, the terms of this Agreement shall prevail.

2.5 DELIVERY. AKORN shall execute all accepted purchase orders consistent with this Agreement by delivery F.O.B. to NOVADAQ's designated carrier at AKORN's distribution facility of all ordered quantities of the Product no later than the delivery dates provided in NOVADAQ's purchase orders. Title and risk of loss will pass to NOVADAQ when each order of Product is delivered to NOVADAQ's designated carrier at AKORN's distribution facility.

2.6 LABELING. Within thirty (30) days after the Effective Date, NOVADAQ, at its own expense, will provide AKORN with NOVADAQ's labeling for the Product bearing NOVADAQ's corporate name and trade dress. AKORN, at NOVADAQ's expense, will print, either directly or through a Third Party, labels and other printed material to be included as part of the finished Product. Product manufactured by or for AKORN after AKORN's receipt of any new or altered labeling for the Product, shall bear such new labeling, provided, however, that AKORN shall have no responsibility with respect to the content of such labeling, provided the content of the labeling printed by AKORN is the same as the content or specification of the labeling provided by NOVADAQ. NOVADAQ shall reimburse AKORN for all reasonable costs incurred by AKORN in making any modifications to the labeling, branding or imprinting, packaging and/or manufacturing processes to accommodate NOVADAQ's labeling or to

accommodate any other changes requested by NOVADAQ. Such reimbursement shall be made pursuant to invoices submitted by AKORN

to NOVADAQ, which invoices shall be payable within thirty (30) days after NOVADAQ's receipt thereof.

3. MANUFACTURE OF PRODUCTS

3.1 MANUFACTURE OF PRODUCT; CERTIFICATE OF ANALYSIS. AKORN shall, or shall cause any Third Party manufacturer contracted by AKORN to manufacture the Product to, manufacture the Product in compliance with applicable current good manufacturing practices as described in 21 C.F.R. parts 210 and 211 for ICG-C used in the United States and any equivalent provisions enforced by applicable Regulatory Authorities for ICG-C used in countries outside the United States. All Product supplied by AKORN to NOVADAQ shall materially conform to the Specifications. AKORN shall perform, or cause to be performed, release testing of each batch of Product, in a manner consistent with testing methods agreed upon by the Parties, and AKORN shall provide to NOVADAQ a Certificate of Analysis with each shipment of the Product to NOVADAQ or its designated recipient stating that the Product materially conforms to the Specifications. The Certificate of Analysis shall be in a format agreed upon by the Parties.

3.2 COMPLIANCE WITH LAWS AND REGULATIONS. While the Product is in its possession or under its, or its sub-contractor's control, AKORN shall comply, or ensure that its subcontractors comply, with all applicable federal, state and local statutory and regulatory requirements regarding the manufacture, if applicable, packaging, handling transportation and storage of the Product.

3.3 MANUFACTURING DIFFICULTIES. AKORN shall notify NOVADAQ (within 10 working days) upon any occasion in which AKORN, or any Third Party with whom AKORN has contracted for the manufacture of the Product, experiences any manufacturing problems in producing the Product which AKORN reasonably believes may delay shipment of the Product to NOVADAQ. Subject to the provisions of Section 12.1, AKORN shall use Commercially Reasonable Efforts to resolve those problems and shall keep NOVADAQ fully informed of the status of those efforts. If delays are reasonably expected to (or do) cause AKORN to be unable to supply Product in accordance with NOVADAQ'S purchase order, then NOVADAQ may obtain ICG-C from an alternative source until the supply problems are resolved by AKORN.

4. PURCHASE PRICE; TERMS OF PAYMENT.

4.1 PRICE. NOVADAQ shall purchase from AKORN and AKORN shall sell to NOVADAQ Product at a purchase price which shall, at all times, equals AKORN's best wholesale price for ICG for the calendar month immediately preceding the date of shipment of a Purchase Order, adjusted, however, to reflect any volume discounts resulting from increases in the amount of Product ordered

by NOVADAQ for the Calendar Year in which such Purchase Order is received and which are then being offered by AKORN to other Third Party purchasers of ICG products.

4.2 FREIGHT, INSURANCE AND TAXES. NOVADAQ shall pay all actual freight, insurance and government sales tax imposed on purchasers for resale, and duties and other fees (except tax on income to AKORN) incurred in connection with the sale and shipment of the Product to NOVADAQ.

4.3 PAYMENT. Payments to AKORN for the purchase price of delivered Product (as well as any other payment due from NOVADAQ to AKORN under this Agreement) shall be made by NOVADAQ within thirty (30) days after the date of shipment, except as to Product orders which are rejected by NOVADAQ in accordance with the procedures contained in Section 5, or which the Parties dispute constitute Acceptable Product. In the event Product is rejected by NOVADAQ, but is determined to be Acceptable Product pursuant to Section 5.2 hereof, the payment for such Product shall be due and payable within ten (10) days after the determination with respect to such Product is made in accordance with Section 5.2 hereof.

4.4 MAINTENANCE OF RECORDS; AUDITS. AKORN shall keep complete records of

its average wholesale cost for ICG product sales and, upon request of NOVADAQ, shall permit an independent certified public accountant selected by NOVADAQ, that has first executed an appropriate confidentiality agreement with AKORN and is reasonably acceptable to AKORN, to inspect and review AKORN's records during normal business hours and upon reasonable prior notice, but, in any event, no more than once per year, in order to verify or determine AKORN's average wholesale cost of ICG products. The independent certified public accountant selected by NOVADAQ may not disclose to NOVADAQ specific sales prices charged to any individual Third Party, but only whether or not the average wholesale price for ICG products as reported by AKORN is correct. NOVADAQ shall bear the costs and fees associated with such inspections and reviews unless it is determined by the independent certified public accountant that the average wholesale price was incorrect (in excess of five percent (5%)) in which case AKORN shall bear the costs and fees of such audit. AKORN shall promptly refund to NOVADAQ any overpayments made by NOVADAQ because of such unsupported pricing.

5. INSPECTION OF PRODUCT.

5.1 INSPECTION; REJECTION OF PRODUCT. NOVADAQ shall analyze representative samples of each lot of Product delivered to NOVADAQ for purposes of determining whether the same meets the Specifications ("Acceptable Product") and, if performed, will do so within sixty (60) days from the date of delivery of the Product to NOVADAQ's carrier. NOVADAQ shall notify AKORN in writing within said sixty (60) days of any Product lot, or portion thereof, which

NOVADAQ is rejecting because NOVADAQ believes such Product is not Acceptable Product. If NOVADAQ fails to so notify AKORN that it is rejecting a lot of Product, or portion thereof, within such sixty (60) day period, such lot of Product, or portion thereof, shall be deemed to be Acceptable Product. Payment terms will still remain net thirty days (30). Any Product which is properly rejected in accordance with the procedures set forth in this Section 5 for which NOVADAQ has already paid shall be replaced in accordance with Section 5.3

5.2 THIRD PARTY ANALYSIS. If AKORN, after good faith consultation with NOVADAQ, disputes any finding by NOVADAQ that Product is not Acceptable Product, representative samples of the Product shall be forwarded for analysis to a suitably qualified independent Third Party jointly selected by AKORN and NOVADAQ, in their reasonable discretion, which analysis shall be performed in compliance with applicable FDA regulations for retesting of pharmaceutical products. The findings of such Third Party regarding whether the Product was Acceptable Product shall be binding upon the Parties. The cost of such analysis by such Third Party shall be borne by the Party whose findings differed from those generated by such Third Party laboratory.

5.3 REPLACEMENT OF PRODUCT. AKORN shall replace any Product order, or portion thereof, which is not Acceptable Product (unless such non-conformance is due to any negligent or wrongful act or omission by NOVADAQ or its agents or sub contractors), at AKORN's cost and expense, including shipping costs.

5.4 DISPOSITION OF REJECTED PRODUCT. AKORN shall instruct NOVADAQ as to the disposition of any Product order or portion thereof determined not to be Acceptable Product. At the sole option of AKORN, said Product may be returned to AKORN, at AKORN's expense including shipping costs, or destroyed in an environmentally acceptable manner, again at AKORN's expense.

6. INSPECTION AND ACCESS TO FACILITY AND RECORDS.

6.1 INSPECTION BY REGULATORY AUTHORITIES. Upon the request of the FDA or other Regulatory Authority, such authority shall have access to observe and inspect AKORN's or its Third Party manufacturers' facilities and procedures used for the manufacture, testing or warehousing of the Product and to audit such facilities for

compliance with cGMP and/or other applicable regulatory standards.

6.2 NOTIFICATION OF INQUIRIES. AKORN shall notify NOVADAQ as soon as possible, and in any event, within ten (10) days, of any written or oral inquiries, notifications or inspection activity by the FDA or other Regulatory Authority in regard to or affecting the Product. AKORN shall furnish to NOVADAQ (i) within ten (10) business days after receipt, any report or correspondence issued by the FDA or other Governmental Authority in connection with such visit or inquiry, including, but not limited to, any FDA Form 483 (List of Inspectional Observations), Establishment Inspection Report or applicable portions of any

FDA Warning Letters which pertain to the Product in the Territory and (ii) not later than ten (10) business days after to the time it provides to the FDA or other Regulatory Authority, copies of proposed responses or explanations relating to items set forth above (each, a "Proposed Response"), in each case redacted of trade secrets or other confidential or proprietary information that is unrelated to the obligations under this Agreement or are unrelated to the Product. After the filing of a response with the FDA or other Regulatory Authority, AKORN will notify NOVADAQ of any further contacts with such agency relating to the subject matter of the response.

7. WARRANTIES AND INDEMNITIES.

7.1 REPRESENTATIONS AND WARRANTIES OF EACH PARTY. As of the Effective Date, each of NOVADAQ and AKORN hereby represents, warrants and covenants to the other Party hereto as follows:

(a) It is a corporation duly organized and validly existing under the laws of the state, province or other jurisdiction of its incorporation or formation;

(b) The execution, delivery and performance of this Agreement by such Party has been duly authorized by all requisite corporate action and does not require any shareholder action or approval;

(c) It has the power and authority to execute and deliver this Agreement and to perform its obligations hereunder;

(d) The execution, delivery and performance by such Party of this Agreement and its compliance with the terms and provisions hereof does not and will not conflict with or result in a breach of any of the terms and provisions of or constitute a default under (i) a loan agreement, guaranty, financing agreement, agreement affecting a product or other agreement or instrument binding or affecting it or its property; (ii) the provisions of its charter or operative documents or bylaws; or (iii) any order, writ, injunction or decree of any court or governmental authority entered against it or by which any of its property is bound; and

(e) It shall at all times comply with all applicable material laws and regulations relating to its activities under this Agreement.

7.2 SETTLEMENT AND MUTUAL RELEASE. The Parties acknowledge the Settlement and Mutual Release and confirm and agree that all of the terms and conditions thereof shall be incorporated in this Agreement to the extent applicable.

7.3 PRODUCT WARRANTY. In addition to the representations and warranties made by AKORN in Section 7.1 hereof, AKORN represents and warrants to NOVADAQ that all Product supplied hereunder will conform to the Specifications.

7.4 DISCLAIMER OF ALL OTHER WARRANTIES. EXCEPT FOR THE WARRANTIES EXPRESSLY MADE BY AKORN IN SECTIONS 7.1 AND 7.3 HEREOF, AKORN MAKES NO OTHER REPRESENTATIONS OR WARRANTIES, EITHER EXPRESS OR IMPLIED (WHETHER WRITTEN OR ORAL), INCLUDING, WITHOUT LIMITATION ANY IMPLIED WARRANTY OF MERCHANTABILITY OR ANY WARRANTY OF FITNESS FOR A PARTICULAR PURPOSE WITH RESPECT TO THE PRODUCTS OR AKORN'S OBLIGATIONS HEREUNDER. IN ADDITION, BECAUSE AKORN WILL HAVE NO CONTROL OVER (A) ANY OTHER PRODUCT OR PROCEDURE OF WHICH THE PRODUCT IS A COMPONENT OR IN WHICH THE PRODUCT IS USED, (B) THE CONDITIONS UNDER WHICH THE PRODUCT OR ANY OTHER PRODUCT OR PROCEDURE OF WHICH THE PRODUCT IS A COMPONENT OR IS USED, (C) THE DIAGNOSIS OF THE PATIENTS, OR (D) THE METHODS OF ADMINISTERING OR HANDLING THE PRODUCT OR ANY OTHER PRODUCT OR PROCEDURE OF WHICH THE PRODUCT IS A COMPONENT OR IS USED AFTER THE PRODUCT LEAVES AKORN'S POSSESSION, AKORN DOES NOT WARRANT EITHER A GOOD EFFECT OR AGAINST AN ILL EFFECT FOLLOWING THE USE OF THE PRODUCT OR ANY OTHER PRODUCT OR PROCEDURE OF WHICH THE PRODUCT IS A COMPONENT OR IS USED. AKORN EXPRESSLY DISCLAIMS ANY WARRANTY UNDER SECTION 2-312(3) OF THE UNIFORM COMMERCIAL CODE.

7.5 INDEMNIFICATION BY AKORN. AKORN shall indemnify, defend and hold harmless NOVADAQ, its Affiliates and each of its and their respective officers, directors, shareholders, employees, agents and representatives (each a "NOVADAQ Indemnified Party") from any claims, losses, liabilities, costs, expenses (including reasonable attorney's fees) and damages to Third Parties, including any related to property or personal injury (each a "Liability"), which any NOVADAQ Indemnified Party may incur, suffer or be required to pay resulting from or arising in connection with (a) the breach by AKORN of any representation or warranty contained in this Agreement; (b) any violation by AKORN or any Third Party manufacturer of any applicable federal, state or local regulation, statute or order in the manufacture, packaging, storage or shipping of Products arising out of AKORN's duties under this Agreement which is not attributable to printed materials provided by NOVADAQ; or (c) any negligent act or omission by AKORN or its Affiliates in carrying out its obligations under this Agreement. Notwithstanding the foregoing, AKORN shall have no obligation to defend, indemnify or hold harmless any NOVADAQ Indemnified Party for any Liability that results from the negligence or intentional misconduct of NOVADAQ, its Affiliates, or any of its permitted sub-licensees or any of their respective officers, directors, employees, agents, consultants or representatives.

7.6 INDEMNIFICATION BY NOVADAQ. NOVADAQ shall indemnify, defend and hold harmless AKORN and its Affiliates and subcontractors, and each of its and their respective employees, officers, directors and agents (each an "AKORN Indemnified Party") from and against any Liability which any AKORN Indemnified Party may incur, suffer or be required to pay resulting from or arising in connection with (a) the breach by NOVADAQ of any representation or warranty contained in this Agreement; (b) materials, including, but not limited to labeling, or promotional claims supplied or made by NOVADAQ, or (c) the use, packaging, promotion, distribution, testing, use, marketing, sale or other disposition of Product by NOVADAQ, its Affiliates, its permitted sub-licensees or their respective subcontractors. Notwithstanding the foregoing, NOVADAQ shall have no obligation to indemnify, defend, or hold harmless any AKORN Indemnified Party for any Liability that results from the intentional misconduct or negligence of AKORN, its Affiliates, its permitted subcontractors or any of their respective employees, officers, directors or agents, consultants or representatives.

7.7 CONDITIONS TO INDEMNIFICATION. The obligations of the indemnifying Party under Sections 7.4 and 7.5 are conditioned upon the delivery of written notice to the indemnifying Party of any potential Liability promptly after the indemnified Party becomes aware of such potential Liability. The indemnifying Party shall have the right to assume the defense of any suit or claim related to the Liability if it has assumed responsibility for the suit or claim in writing; provided, however, if in the reasonable judgment of the indemnified

Party, such suit or claim involves an issue or matter which could have a materially adverse effect on the business operations or assets of the indemnified Party, the indemnified Party may waive its rights to indemnity under this Agreement and control the defense or settlement thereof, but in no event shall any such waiver be construed as a waiver of any indemnification rights such Party may have at law or in equity. If the indemnifying Party defends the suit or claim, the indemnified Party may participate in (but not control) the defense thereof at its sole cost and expense. Any indemnification payable to an indemnified Party shall be net of taxes, insurance or payment received by the indemnified Party from any Third Party.

7.8 LIMITATION OF LIABILITY. WITH RESPECT TO ANY CLAIM BY ONE PARTY AGAINST THE OTHER ARISING OUT OF THE PERFORMANCE OR FAILURE OF PERFORMANCE OF THE OTHER PARTY UNDER THIS AGREEMENT WHERE THE INABILITY OR FAILURE TO PERFORM IS FOR REASONS BEYOND THE REASONABLE CONTROL OF SUCH PARTY, THE PARTIES EXPRESSLY AGREE THAT THE LIABILITY OF SUCH PARTY TO THE OTHER PARTY FOR SUCH BREACH SHALL BE LIMITED UNDER THIS AGREEMENT OR OTHERWISE AT LAW OR EQUITY TO DIRECT DAMAGES ONLY AND IN NO EVENT SHALL A PARTY BE LIABLE FOR INCIDENTAL, PUNITIVE, EXEMPLARY OR CONSEQUENTIAL DAMAGES OR LOST PROFITS.

7.9 SETTLEMENTS. Neither Party may settle a claim nor action related to a Liability without the consent of the other Party, if such settlement would impose any monetary obligation on the other Party, constitute or admission by the other Party, expose the other Party to any additional liability or prosecution, require the other Party to submit to an injunction or otherwise limit the other Party's rights under this Agreement. Except as otherwise expressly set forth in this Article 7, any payment made by a Party to settle any such claim or action shall be at its own cost and expense.

7.10 INSURANCE. AKORN and NOVADAQ shall obtain and maintain at all times during the term of this Agreement commercial general liability insurance, including products liability, with limits which are commercially reasonable for similarly situated companies and each agrees to provide the other with a Certificate of Insurance evidencing this coverage within thirty (30) days of the Effective Date.

8. RECALLS

8.1 PRODUCT RECALLS. In the event of an actual or threatened recall of the Product required or recommended by a Governmental Authority of competent jurisdiction within the Territory or if recall of any Product is (i) reasonably deemed advisable by AKORN or by NOVADAQ, or (ii) jointly deemed advisable by AKORN and NOVADAQ, such recall shall be promptly implemented and administered by NOVADAQ in a manner which is appropriate and reasonable under the circumstances and in conformity with accepted trade practices. In the event that a recall is caused due to the negligent acts or omissions of AKORN, its Affiliates or subcontractors, or by the fact that the Product supplied by AKORN to NOVADAQ does not conform to the Specifications, the cost, including NOVADAQ's reasonable out-of-pocket expenses, of any such recall shall be borne by AKORN. NOVADAQ shall pay all costs, including AKORN's reasonable out-of-pocket expenses, associated with a recall for any other reason, including, without limitation, recalls (i) caused by actions of Third Parties occurring after such Product is sold to NOVADAQ, or (ii) due to packaging or label defects for which NOVADAQ has responsibility, or (iii) due to any other breach by NOVADAQ of this Agreement.

8.2 NOTICE OF EVENTS THAT MAY LEAD TO PRODUCT RECALL. Each Party shall keep the other fully and promptly informed of any notification, event or other information, whether received directly or indirectly, which might affect the marketability, safety or effectiveness of the Product or might result in a recall of Product by the HPB, FDA or other Governmental Body.

8.3 RECALL DUE TO BREACH BY AKORN. In the event of any recall for which AKORN would be responsible for the costs in accordance with Section

8.1 hereof, AKORN shall, at the election of NOVADAQ either:

(a) Supply Product, without charge to NOVADAQ, in an amount sufficient to replace the amounts of Product recalled, or

(b) Refund to NOVADAQ the amount paid or give credit to NOVADAQ against outstanding receivables due from NOVADAQ for the price of Product to be delivered to NOVADAQ in the future, in amounts equal to the price paid by NOVADAQ to AKORN for Product so recalled plus the reasonable transportation costs incurred by NOVADAQ and not recovered by NOVADAQ in respect of such recalled Product.

8.4 DEFINITION OF RECALL. For Purposes of the Article 8, "recall" shall mean any action by NOVADAQ and its Affiliates, or AKORN and its Affiliates, to recover title or possession or halt distribution, prescription or consumption of Product sold or shipped to Third Parties.

8.5 SURVIVAL OF OBLIGATIONS. The provisions and obligations of this Article 8 shall survive any termination of this Agreement.

9. NON-COMPETITION AND PERMITTED USE

9.1 CONTINUING MANUFACTURE AND SALE OF OTHER ICG PRODUCTS. NOVADAQ acknowledges that AKORN and its Affiliates have sold and will continue to sell other products containing ICG prior to and subsequent to the execution of this Agreement. The Parties agree that this Agreement shall not be construed to limit the right of AKORN and its Affiliates to manufacture, have manufactured and sell other products containing ICG to Third Parties subject to AKORN's obligations of confidentiality and non-use under this Agreement.

9.2 RESTRICTIVE COVENANTS. Each Party hereby covenants and agrees with the other that for so long as this Agreement is in effect and for a period (the "Restricted Period") of five (5) years thereafter, neither Party shall, without the prior written consent of the other Party, which consent shall be within the sole and exclusive discretion of the other Party, either directly or indirectly, on its own account or as a consultant, agent, partner, joint venturer, owner, or shareholder of any other person (other than AKORN's status as a shareholder of NOVADAQ), entity, or in any other capacity, in any way:

9.2.1 Carry on, be engaged in or have any financial interest in any business which is in competition with the business of the other Party. For purposes of this Section 9.2, a business shall be deemed to be in competition with AKORN if it involves products which were at the relevant time or at the time of termination, being marketed in the Territory or which at such time were under study by AKORN and expected to be marketed in the Territory within six (6) months of such date for ophthalmic uses. For purposes of this Section 9.2, a business shall be deemed to be in competition with

NOVADAQ if it involves products which were, at the relevant time or at the time of termination, being marketed in the Territory by NOVADAQ or which at such time were under study by NOVADAQ and expected to be marketed in the Territory within six (6) months of such date of termination, in either case for any of the Indications only.

9.2.2 Solicit for the business of the other Party (as defined in paragraph 9.2.1) any then current customer or client of the other Party or any affiliate of the other Party or, after termination, anyone who was a customer or client at any time during the twelve (12) month period immediately preceding

termination.

9.2.3 Solicit, employ or engage any person who is then an employee of the other Party or any affiliate of the other Party or was an employee of the other Party or, after termination, any affiliate of the other Party at any time during the twelve (12) month period immediately preceding termination.

10. TERM AND TERMINATION.

10.1 TERM. This Agreement shall become effective upon the Effective Date and, unless earlier terminated as provided below, shall remain in full force and effect for a period ending on the seventh (7th) anniversary of the Effective Date (the "Initial Term"). Thereafter, this Agreement shall automatically renew for successive five (5) year terms (each a "Renewal Term" and together with the Initial Term, the "Term") unless, at least 180 days prior to any such Renewal Term, either Party shall have notified the other of its intention not to renew this Agreement. Upon expiration or termination of this Agreement for any reason, all unpaid amounts due pursuant to this Agreement, including, but not limited to, Section 4.3, shall become immediately due and payable.

10.2 TERMINATION

(a) This Agreement shall terminate upon the mutual written agreement of the Parties.

(b) If either Party breaches or defaults in the performance or observance of any of the material provisions of this Agreement, and such breach or default is not cured within 60 days after the giving of notice by the non-defaulting Party specifying such breach or default, the non-defaulting Party shall have the right to terminate this Agreement, effective immediately upon notice to the defaulting Party.

(c) Either Party shall have the right to terminate this Agreement upon 30 days' notice to the other Party, if that other Party becomes involved in financial difficulties as evidenced:

(i) by that other Party's commencement of a voluntary case under any applicable bankruptcy code or statue, or by its authorizing, by appropriate proceedings, the commencement of such voluntary case; or

(ii) by its failing to receive dismissal of any involuntary case under any applicable bankruptcy code or statute within 90 days after initiation of such action or petition; or

(iii) by its seeking relief as a debtor under any applicable law of any jurisdiction relating to the liquidation or reorganization of debtors or to the modification or alteration of the rights of creditors, or by consenting to or acquiescing in such relief; or

(iv) by the entry of an order by a court of competent jurisdiction finding it to be bankrupt or insolvent, or ordering or approving its liquidation, reorganization or any modification or alteration of the rights of its creditors or assuming custody of, or appointing a receiver or other custodian for, all or a substantial part of its property or assets; or

(v) by its making an assignment for the benefit of, or entering into an agreement with, its creditors, or appointing or consenting to the appointment of a

receiver or other custodian for all or a substantial part of its property or by the appointment of such a receiver by a Third Party, which appointment is not revoked by a Court of competent jurisdiction within sixty (60) days of its occurrence.

(d) The failure by a Party to exercise its right to terminate this Agreement pursuant to Section 9.2. in the event of any occurrence giving rise thereto shall not constitute waiver of the right in the event of any subsequent occurrence.

10.3 EFFECT OF TERMINATION.

(a) Unless otherwise agreed to between the Parties, all Product on hand as of the effective date of expiration or termination of this Agreement will be treated as follows as soon as practicable:

(i) Product manufactured and packaged pursuant to purchase orders previously received from NOVADAQ, will be delivered by AKORN to NOVADAQ, whereupon

NOVADAQ will pay AKORN therefore in accordance with the terms hereof; and

(ii) Work in progress commenced by AKORN in accordance with a Binding Quarterly Forecast will, at the option of NOVADAQ (but at the option of AKORN in the case of termination hereof by AKORN under Section 10.2(b)), (A) cease, and such work in progress will remain with AKORN (in which case NOVADAQ will pay AKORN an amount equal to AKORN's actual costs incurred in connection with the performance and cessation of such work less the cost to AKORN of materials that can be returned by AKORN or used by AKORN in later batches of other products manufactured by AKORN as reasonably determined by AKORN) or (B) be completed by AKORN and delivered to NOVADAQ whereupon NOVADAQ will pay AKORN therefore in accordance with the terms hereof.

(b) In the event that NOVADAQ terminates this Agreement either pursuant to Section 10.2.(b) because of a Material Breach, or pursuant to 10.2.(c), then, in either event, NOVADAQ shall thereafter be permitted to order all further supply of Product directly from any Third Party which is at the time of termination a Permitted Manufacturer or other qualified supplier. AKORN will license to NOVADAQ, within 60 (sixty) days of the date of this Agreement, for the Indications, all required Know-How necessary to manufacture the Product which license shall become effective only in the event that NOVADAQ terminates this Agreement either pursuant to Section 10.2(b) because of a Material Breach or pursuant to 10.2(c).

10.4 ACCRUED OBLIGATIONS. Termination of this Agreement for any cause shall not release either Party from any obligation or liability incurred prior to or upon termination hereof or which subsequently arises under Section 10.6.

10.5 NO WAIVER. The failure on the part of either Party to exercise or enforce any right conferred upon it hereunder shall not be deemed to be a waiver of any such right nor operate to bar the exercise or enforcement thereof at any time thereafter.

10.6 SURVIVAL. Subject to Section 10.3 hereof, the following provisions shall survive expiration or termination of this Agreement: Sections 4.4, 5.3, 5.4, 9.2, 12.3, 12.4, 12.5, 12.6, 12.7, 12.8, and 12.9 and

Articles 7, 8 and 11.

11. CONFIDENTIALITY.

11.1 NONDISCLOSURE OBLIGATION. Each of NOVADAQ and AKORN agree to use any information received by it from the other Party (the "Information") only in accordance with this Agreement and not to disclose Information to any Third Party, without the prior written consent of the other Party, for a period of five (5) years from the termination or expiration of this Agreement. These obligations shall not apply to Information that:

(a) Is known by the receiving Party at the time of its receipt, and not through a prior disclosure by the disclosing Party, as documented by the receiving Party's business records;

(b) Is at the time of disclosure or thereafter becomes published or otherwise part of the public domain without breach of this Agreement by the receiving Party;

(c) Is subsequently disclosed to the receiving Party by a Third Party who has the right to make such disclosure;

(d) Is developed by the receiving Party independently of the Information received from the disclosing Party and such independent development can be documented by the receiving Party; or

(e) Is required by law, regulation, rule, act or order of any governmental authority or agency to be disclosed by a Party, provided that notice is promptly delivered to the other Party in order to provide an opportunity to seek a protective order or other similar order with respect to such Information and thereafter the disclosing Party discloses to the requesting entity only the minimum Information required to be disclosed in order to comply with the request, whether or not a protective order or other similar order is obtained by the other Party.

11.2 PERMITTED DISCLOSURES. Information may be disclosed to employees, agents, consultants, sub-licensees or suppliers or Third Party manufacturers of the recipient Party or its Affiliates, but only to the extent required to accomplish the purposes of this Agreement and only if the recipient Party obtains prior agreement from its employees, agents, consultants, sub-licensees, suppliers or Third Party manufacturers to whom disclosure is to be made to hold in confidence and not make use of such Information for any purpose other than those permitted by this Agreement. Each Party will use at least the same standard of care as it uses to protect proprietary or confidential information of its own to ensure that such employees, agents, consultants, sub-licensees, suppliers or Third Party manufacturers do not disclose or make any unauthorized use of the Information.

11.3 DISCLOSURE OF AGREEMENT. Neither NOVADAQ nor AKORN shall release to any Third Party or publish in any way any non-public information with respect to the terms of this Agreement or concerning their cooperation without the prior written consent of the other, which consent will not be unreasonably withheld or delayed, provided, however, that either Party may disclose the terms of this Agreement to the extent required to comply with applicable laws, including, without limitation the rules and regulations promulgated by the United States Securities and Exchange Commission, provided, however, that prior to making any such disclosure, the Party intending to so disclose the terms of this Agreement shall (i) provide the non-disclosing Party with written notice of the proposed disclosure and a opportunity to review and comment on the intended disclosure

which is reasonable under the circumstances and (ii) shall seek confidential treatment for as much of the disclosure as is reasonable under the circumstances, including, without limitation, seeking confidential treatment of any information as may be requested by the other Party. Notwithstanding any other provision of this Agreement, each Party may disclose the terms of this Agreement to lenders, investment bankers and other financial institutions of its choice solely for purposes of financing the business operations of such Party, if the disclosing Party uses reasonable efforts to obtain a signed confidentiality agreement with such financial institution with respect to such information on terms substantially similar to those contained in this Article 11.

11.4 PUBLICITY. Subject to Section 11.3, all publicity, press releases and other announcements relating to this Agreement or the transactions contemplated hereby shall be reviewed in advance by, and shall be subject to the approval of, both Parties. The Party responding to a request for such approval shall respond to the other Party in writing within five (5) days of such request.

12. MISCELLANEOUS.

12.1 FORCE MAJEURE. Except for the obligation to make payment when due, each Party shall be excused from liability for the failure or delay in performance of any obligation under this Agreement by reason of any event beyond such Party's reasonable control including but not limited to Acts of God, fire, flood, explosion, earthquake, or other natural forces, war, civil unrest, accident, destruction or other casualty, any act, inaction or delay of any government or government agency, or any other event similar to those enumerated above. Such excuse from liability shall be effective only to the extent and duration of the event(s) causing the failure or delay in performance and provided that the Party has not caused such event(s) to occur. Notice of a Party's failure or delay in performance due to force majeure must be given to the other party within Ten (10) days after its occurrence. All delivery dates in this Agreement that have been affected by force majeure shall be suspended for the duration of such force majeure.

12.2 ASSIGNMENT

(a) ASSIGNMENT BY NOVADAQ. NOVADAQ may assign any or all of its rights or obligations under this Agreement in the Territory to any of its Affiliates, for so long as they remain Affiliates. In addition, NOVADAQ may assign any or all of its rights or obligations under this Agreement in the Territory in conjunction with a merger or acquisition of NOVADAQ. NOVADAQ may not otherwise assign any of its rights or obligations under this Agreement without AKORN's prior written consent, which consent shall not be unreasonably withheld. AKORN shall respond to such requests by NOVADAQ for assignment within thirty (30) days from such request. Any permitted assignment shall not relieve NOVADAQ of its responsibilities for performance of its obligations under this Agreement.

(b) ASSIGNMENT BY AKORN. AKORN may assign any or all of its rights or obligations under this Agreement to any of its Affiliates. AKORN may also assign any or all of its rights or obligations under this Agreement in conjunction with a merger or acquisition of AKORN. In addition, AKORN may assign all or part of its obligations to a Third Party manufacturer after receiving NOVADAQ's prior written consent, (other than to a Permitted Manufacturer for which consent shall not be required) which consent shall not be unreasonably withheld or delayed. Any permitted assignment shall not relieve AKORN of its responsibilities for performance of its obligations under this Agreement.

(c) BINDING NATURE OF ASSIGNMENT. This Agreement shall be binding upon and inure to the benefit of the successors

and permitted assigns of the Parties. Any assignment not in accordance with this Section 12.2 shall be void.

12.3 NO WAIVER. The failure of either Party to require performance by the other Party of any of that other Party's obligations hereunder shall in no manner affect the right of such Party to enforce the same at a later time. No waiver by any Party hereto of any condition, or of the breach of any provision, term, representation or warranty contained in this Agreement, whether by conduct or otherwise, in any one or more instances, shall be deemed to be or construed as a further or continuing waiver of any such condition or breach, or of any other condition or of the breach of any other provision, term, representation or warranty hereof.

12.4 SEVERABILITY. If a court or other tribunal of competent jurisdiction should hold any term or provision of this Agreement to be excessive, or invalid, void or unenforceable, the offending term or provision shall be deleted or revised to the

extent necessary to be enforceable, and, if possible, replaced by a term or provision which, so far as practicable achieves the legitimate aims of the Parties.

12.5 RELATIONSHIP BETWEEN THE PARTIES. Both Parties are independent contractors under this Agreement. Nothing herein contained shall be deemed to create an employment, agency, joint venture or partnership relationship between the Parties hereto or any of their agents or employees, or any other legal arrangement that would impose liability upon one Party for the act or failure to act of the other Party. Neither Party shall have any express or implied power to enter into any contracts or commitments or to incur any liabilities in the name of, or on behalf of, the other Party, or to bind the other Party in any respect whatsoever.

12.6 CORRESPONDENCE AND NOTICES.

(a) Ordinary Notices. Correspondence, reports, documentation, and any other communication in writing between the Parties in the course of ordinary implementation of this Agreement shall be delivered by hand, sent by facsimile, overnight courier or by airmail to the employee or representative of the other Party who is designated by such other Party to receive such written communication.

(b) Extraordinary Notices. Extraordinary notices and communications (including, without limitation, notices of termination, force majeure, material breach, change of address) shall be in writing and sent by prepaid registered or certified mail, overnight courier or by facsimile confirmed by prepaid registered or certified mail letter, and shall be deemed to have been properly served to the addressee three days after mailing by registered or certified mail, the next day if sent by overnight courier and upon receipt if sent by facsimile.

(c) Addresses. In the case of NOVADAQ, the proper address for communications and for all payments shall be:

Novadaq Technologies, Inc.
924 The East Mall, Suite 100
Toronto, Ontario M9B 6K1
Attn: Chief Financial Officer
Fax: (416) 695-3993

and in the case of AKORN, the proper address for communications and for all payments shall be:

Akorn, Inc.
2500 Millbrook Drive
Buffalo Grove, Illinois 60089
Attn: Chief Financial Officer

Fax: (847) 279-6123

12.7 CHOICE OF LAW. This Agreement is subject to and governed by the laws of the State of Illinois, excluding its conflict of laws provisions.

12.8 ENTIRE AGREEMENT; AMENDMENT. This Agreement sets forth the complete, final and exclusive agreement between the Parties with respect to the subject matter hereto and supersedes and terminates all prior and contemporaneous agreements and understandings between the Parties, whether oral or in writing. No subsequent alteration, amendment, change, waiver or addition to this Agreement shall be binding upon the Parties unless reduced to writing and signed by an authorized officer of each Party. No understanding, agreement, representation or promise, not explicitly set forth herein, other than the Settlement and Mutual Release executed by the Parties on the date hereof, has been relied on by either Party in deciding to execute this Agreement as set forth herein.

12.9 ARBITRATION. The Parties shall attempt in good faith to promptly resolve any controversy, claim or dispute arising between them. In the event that the Parties are unable to resolve any such controversy, claim or dispute within 30 days, then any such controversy, claim or dispute between the Parties, directly or indirectly, concerning this Agreement or the breach hereof, or the subject matter hereof, shall be finally settled by binding arbitration in accordance with the Rules of Conciliation and Arbitration of the International Chamber of Commerce. Prior to initiating such arbitration proceedings the Parties shall attempt to resolve the dispute by good faith negotiations between themselves. The situs of the arbitration proceedings shall be the City of Toronto, Ontario, Canada, if the arbitration was requested or initiated by NOVADAQ, and in the City of Chicago, Illinois, U.S.A., if the arbitration was requested or initiated by Akorn, and judgment upon the award rendered may be entered in any court having a jurisdiction hereof. In deciding the dispute the arbitrator(s) shall apply first the plain meaning of this Agreement, but in matters not fairly provided for in this Agreement, shall apply the substantive law of the State of Illinois. All pleadings, evidence, testimony, or other submissions to the arbitrator(s) shall be in the English language as shall be the judgment of the arbitrator(s). Pending resolution of any such arbitration, any Party may deposit with its solicitors or another mutually agreeable party an amount equal to 50% of any monetary amount in dispute or such other amount as may be directed by the arbitrator(s) upon preliminary application.

12.10 HEADINGS. The headings and captions used in this Agreement are solely for the convenience of reference and shall not affect its interpretation.

12.11 COUNTERPARTS. This Agreement may be executed in one or more counterparts each of which shall be an original and all of which shall constitute together the same document.

12.12 FURTHER ACTIONS. Each Party agrees to execute, acknowledge and deliver such further instruments, and to do all other acts, as may be necessary or appropriate in

order to carry out the purposes and intent of this Agreement including, without limitation, any filings with any antitrust agency which may be required.

IN WITNESS WHEREOF, this Agreement has been executed by the duly authorized representatives of the Parties as of the date set forth below.

AKORN, INC. NOVADAQ TECHNOLOGIES, INC.

By:_____ By:_____

Name:___________________________ Name:___________________________

Title:__________________________ Title:__________________________

SCHEDULE A
SPECIFICATIONS

EXHIBIT 21.1

SUBSIDIARIES OF THE COMPANY

Name	State of Incorporation
Akorn (New Jersey), Inc.	Illinois