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

FORM 10-Q

☑ **QUARTERLY REPORT PURSUANT TO SECTION 13 OR 15(d) OF THE SECURITIES EXCHANGE ACT OF 1934**

FOR THE QUARTERLY PERIOD ENDED MARCH 31, 2017

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

FOR THE TRANSITION PERIOD FROM ____________ TO ____________

COMMISSION FILE NUMBER: 001-32360

AKORN, INC.
(Exact Name of Registrant as Specified in its Charter)

LOUISIANA	**72-0717400**
(State or Other Jurisdiction of Incorporation or Organization)	(I.R.S. Employer Identification No.)
1925 W. Field Court, Suite 300	
Lake Forest, Illinois	**60045**
(Address of Principal Executive Offices)	(Zip Code)

(847) 279-6100
(Registrant's telephone number, including area code)

Indicate by check mark whether the Registrant (1) has filed all reports required to be filed by Section 13 or 15(d) of the Securities Exchange Act of 1934 during the preceding 12 months (or for such shorter period that the registrant was required to file such reports), and (2) has been subject to such filing requirements for the past 90 days.

Yes ☑ **No** ☐

Indicate by check mark whether the registrant has submitted electronically and posted on its corporate Web site, if any, every Interactive Data File required to be submitted and posted pursuant to Rule 405 of Regulation S-T (§ 229.405 of this chapter) during the preceding 12 months (or for such shorter period that the registrant was required to submit and post such files).

Yes ☑ **No** ☐

Indicate by check mark whether the registrant is a large accelerated filer, an accelerated filer, a non-accelerated filer, smaller reporting company, or an emerging growth company. See the definitions of "large accelerated filer," "accelerated filer," "smaller reporting company," and "emerging growth company"in Rule 12b-2 of the Exchange Act.

Large accelerated filer ☑ **Accelerated filer** ☐
Non-accelerated filer ☐ **(Do not check if a smaller reporting company)** **Smaller reporting company** ☐
Emerging growth company ☐

If an emerging growth company, indicate by check mark if the registrant has elected not to use the extended transition period for complying with any new or revised financial accounting standards provided pursuant to Section 13(a) of the Exchange Act. ☐

Indicate by check mark whether the Registrant is a shell company (as defined in Rule 12b-2 of the Exchange Act).

Yes ☐ **No** ☑

At April 28, 2017, there were 124,555,268 shares of common stock, no par value, outstanding.

PART I. FINANCIAL INFORMATION
Item 1. Financial Statements.

AKORN, INC.
CONDENSED CONSOLIDATED BALANCE SHEETS
(In Thousands, Except Share Data)

	March 31, 2017 (Unaudited)	December 31, 2016
ASSETS		
CURRENT ASSETS		
Cash and cash equivalents	$ 307,425	$ 200,772
Trade accounts receivable, net	233,682	283,154
Inventories, net	172,325	174,793
Available-for-sale securities, current	1,310	1,106
Prepaid expenses and other current assets	21,208	25,986
TOTAL CURRENT ASSETS	735,950	685,811
PROPERTY, PLANT AND EQUIPMENT, NET	252,656	238,404
OTHER LONG-TERM ASSETS		
Goodwill	285,031	284,293
Intangible assets, net	743,158	758,854
Deferred tax assets	7,042	5,286
Other non-current assets	1,900	1,072
TOTAL OTHER LONG-TERM ASSETS	1,037,131	1,049,505
TOTAL ASSETS	$ 2,025,737	$ 1,973,720
LIABILITIES AND SHAREHOLDERS' EQUITY		
CURRENT LIABILITIES		
Trade accounts payable	$ 50,647	$ 59,534
Purchase consideration payable	4,994	4,994
Income taxes payable	41,707	16,198
Accrued royalties	8,168	15,044
Accrued compensation	13,543	19,113
Accrued administrative fees	31,885	36,436
Accrued expenses and other liabilities	23,900	24,236
TOTAL CURRENT LIABILITIES	174,844	175,555
LONG-TERM LIABILITIES:		
Long-term debt (net of non-current deferred financing costs)	811,283	809,979
Deferred tax liability	157,749	157,607
Other long-term liabilities	11,449	11,395
TOTAL LONG-TERM LIABILITIES	980,481	978,981
TOTAL LIABILITIES	1,155,325	1,154,536
SHAREHOLDERS' EQUITY		
Common stock, no par value – 150,000,000 shares authorized; 124,472,468 and 124,390,217 shares issued and outstanding at March 31, 2017 and December 31, 2016, respectively	527,684	521,860
Retained earnings	360,318	319,291
Accumulated other comprehensive loss	(17,590)	(21,967)
TOTAL SHAREHOLDERS' EQUITY	870,412	819,184
TOTAL LIABILITIES AND SHAREHOLDERS' EQUITY	$ 2,025,737	$ 1,973,720

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF COMPREHENSIVE INCOME
(In Thousands, Except Per Share Data)
(Unaudited)

	Three Months Ended March 31, 2017	Three Months Ended March 31, 2016
Revenues, net	$ 253,420	$ 268,347
Cost of sales (exclusive of amortization of intangibles, included within operating expenses below)	104,288	105,330
GROSS PROFIT	149,132	163,017
Selling, general and administrative expenses	47,526	49,086
Acquisition-related costs	11	197
Research and development expenses	11,291	9,479
Amortization of intangibles	15,471	16,518
Impairment of intangible assets	—	158
TOTAL OPERATING EXPENSES	74,299	75,438
OPERATING INCOME	74,833	87,579
Amortization of deferred financing costs	(1,304)	(6,311)
Interest expense, net	(9,566)	(11,518)
Other non-operating income (expense), net	1,363	(3,178)
INCOME BEFORE INCOME TAXES	65,326	66,572
Income tax provision	24,299	24,686
CONSOLIDATED NET INCOME	$ 41,027	$ 41,886
CONSOLIDATED NET INCOME PER SHARE		
CONSOLIDATED NET INCOME PER SHARE, BASIC	$ 0.33	$ 0.35
CONSOLIDATED NET INCOME PER SHARE, DILUTED	$ 0.33	$ 0.34
SHARES USED IN COMPUTING NET INCOME PER SHARE		
BASIC	124,421	119,516
DILUTED	124,666	125,621
COMPREHENSIVE INCOME		
Consolidated net income	$ 41,027	$ 41,886
Unrealized holding gain (loss) on available-for-sale securities, net of tax of $75 and $386 for the three months ended March 31, 2017 and 2016, respectively.	128	(654)
Foreign currency translation gain	4,026	869
Pension liability adjustment gain, net of tax of $57 and $0 for the three months ended March 31, 2017 and 2016, respectively.	223	—
COMPREHENSIVE INCOME	$ 45,404	$ 42,101

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENT OF SHAREHOLDERS' EQUITY
FOR THE THREE MONTHS ENDED MARCH 31, 2017
(In Thousands)

	Shares	Common Stock	Retained Earnings	Other Comprehensive Loss	Total
BALANCES AT DECEMBER 31, 2016	124,390	$ 521,860	$ 319,291	$ (21,967)	$ 819,184
Consolidated net income	—	—	41,027	—	41,027
Exercise of stock options	82	1,115	—	—	1,115
Restricted stock units	—	1,133	—	—	1,133
Stock-based compensation expense	—	3,314	—	—	3,314
Foreign currency translation gain	—	—	—	4,026	4,026
Unrealized holding gain on available-for-sale securities	—	—	—	128	128
Akorn AG pension liability adjustment	—	—	—	223	223
Employee stock purchase plan	—	262	—	—	262
BALANCES AT MARCH 31, 2017 (unaudited)	124,472	$ 527,684	$ 360,318	$ (17,590)	$ 870,412

See notes to condensed consolidated financial statements.

AKORN, INC.
CONDENSED CONSOLIDATED STATEMENTS OF CASH FLOWS
(In Thousands)
(Unaudited)

	Three Months Ended March 31, 2017	Three Months Ended March 31, 2016
OPERATING ACTIVITIES:		
Consolidated net income	$ 41,027	$ 41,886
Adjustments to reconcile consolidated net income to net cash provided by operating activities:		
Depreciation and amortization	20,914	22,468
Amortization of debt financing costs	1,304	6,311
Impairment of intangible assets	225	158
Non-cash stock compensation expense	4,709	2,921
Non-cash interest expense	—	454
Deferred income taxes, net	(1,174)	(8,009)
Other	31	—
Changes in operating assets and liabilities:		
Trade accounts receivable	49,563	(21,355)
Inventories, net	2,708	(5,928)
Prepaid expenses and other current assets	4,137	(1,190)
Trade accounts payable	(4,286)	(1,948)
Accrued expenses and other liabilities	8,296	(26,783)
NET CASH PROVIDED BY OPERATING ACTIVITIES	$ 127,454	$ 8,985
INVESTING ACTIVITIES:		
Proceeds from disposal of assets	152	—
Payments for intangible assets	—	(1,000)
Purchases of property, plant and equipment	(22,483)	(9,918)
NET CASH USED IN INVESTING ACTIVITIES	$ (22,331)	$ (10,918)
FINANCING ACTIVITIES:		
Proceeds from the exercise of stock options	1,115	—
Debt financing costs	—	(3,571)
Debt payments	—	(200,000)
NET CASH PROVIDED BY(USED IN) FINANCING ACTIVITIES	$ 1,115	$ (203,571)
Effect of exchange rate changes on cash and cash equivalents	415	236
INCREASE (DECREASE) IN CASH AND CASH EQUIVALENTS	$ 106,653	$ (205,268)
Cash and cash equivalents at beginning of period	200,772	346,266
CASH AND CASH EQUIVALENTS AT END OF PERIOD	$ 307,425	$ 140,998
SUPPLEMENTAL DISCLOSURES:		
Amount paid for interest	$ 11,041	$ 10,613
Amount (received) paid for income taxes, net	$ (42)	$ 43,075
Additional capital expenditures included in accounts payable	$ 7,571	$ 2,874

See notes to condensed consolidated financial statements.

AKORN, INC.
NOTES TO CONDENSED CONSOLIDATED FINANCIAL STATEMENTS
(UNAUDITED)

Note 1 — Business and Basis of Presentation

Business: Akorn, Inc., together with its wholly-owned subsidiaries (collectively "Akorn," the "Company," "we," "our" or "us") is a specialty generic pharmaceutical company that develops, manufactures and markets generic and branded prescription pharmaceuticals, branded as well as private-label over-the-counter consumer health products and animal health pharmaceuticals. We are an industry leader in the development, manufacturing and marketing of specialized generic pharmaceutical products in alternative dosage forms. We focus on difficult-to-manufacture sterile and non-sterile dosage forms including, but not limited to, ophthalmics, injectables, oral liquids, otics, topicals, inhalants and nasal sprays.

Akorn is a Louisiana corporation founded in 1971 in Abita Springs, Louisiana. In 1997, we relocated our corporate headquarters to the Chicago, Illinois area and currently maintain our principal corporate offices in Lake Forest, Illinois. We operate pharmaceutical manufacturing facilities in Decatur, Illinois; Somerset, New Jersey; Amityville, New York; Hettlingen, Switzerland; and Paonta Sahib, Himachal Pradesh, India. We also operate a central distribution warehouse in Gurnee, Illinois and additional distribution facilities in Amityville, New York and Decatur, Illinois. Our research and development ("R&D") centers are located in Vernon Hills, Illinois; Copiague, New York and Cranbury, New Jersey. In the fourth quarter of 2016, we moved our previous R&D center in Warminster, Pennsylvania to Cranbury, New Jersey. We also have other corporate offices in Ann Arbor, Michigan and Gurgaon, Haryana, India.

During the three month periods ended March 31, 2017 and 2016, the Company reported results for two reportable segments: Prescription Pharmaceuticals and Consumer Health. For further detail concerning our reportable segments please see Part I, Item 1, Note 10 - "*Segment Information."*

Our common shares are traded on The NASDAQ Global Select Market under the ticker symbol AKRX. Our principal corporate office is located at 1925 West Field Court, Suite 300, Lake Forest, Illinois 60045 with telephone number (847) 279-6100.

***Basis of Presentation*:** The Company's financial statements have been prepared in accordance with accounting principles generally accepted in the United States ("GAAP") for interim financial information and accordingly do not include all the information and footnotes required by GAAP for complete financial statements. In the opinion of management, all adjustments of a normal and recurring nature considered necessary for a fair presentation have been included in these financial statements. Operating results for the three month period ended March 31, 2017 are not necessarily indicative of the results that may be expected for the full year. For further information, refer to the consolidated financial statements and footnotes for the year ended December 31, 2016, included in the Company's Annual Report on Form 10-K filed on March 1, 2017.

The Company has considered the accounting and disclosure of events occurring after the balance sheet date of March 31, 2017 through the filing date of this Form 10-Q.

Certain prior-period amounts such as the provision and allowance components of net trade receivables and gross sales to net revenue adjustments have been reclassified to conform to current-period presentation.

Note 2 — Summary of Significant Accounting Policies

Consolidation: The accompanying condensed consolidated financial statements include the accounts of Akorn, Inc. and its wholly-owned domestic and foreign subsidiaries. All inter-company transactions and balances have been eliminated in consolidation, and the financial statements of Akorn India Private Limited ("AIPL") and Akorn AG (formerly "Excelvision AG" or "Hettlingen") have been translated from Indian Rupees and Swiss Francs, respectively, to U.S. Dollars based on the currency translation rates in effect either during the period or as of the date of consolidation, as applicable. The Company has no involvement with variable interest entities.

Use of Estimates: The preparation of financial statements in conformity with GAAP requires management to make estimates and assumptions that affect the reported amounts of assets and liabilities and disclosure of contingent assets and liabilities at the date of the financial statements, and the reported amounts of revenues and expenses during the reporting period. Actual results could differ materially from those estimates.

Significant estimates and assumptions for the Company may relate to the allowances for chargebacks, rebates and administrative fees, product returns, coupons, promotions and doubtful accounts, as well as the reserve for slow-moving and obsolete inventories, the carrying value and lives of intangible assets, the useful lives of fixed assets, the carrying value of deferred income tax assets and liabilities, the assumptions underlying share-based compensation, accrued but unreported employee benefit costs and assumptions underlying the accounting for business combinations.

Going Concern: In connection with the preparation of the financial statements as of and for the three month period ended March 31, 2017, the Company conducted an evaluation as to whether there were conditions and events, considered in the aggregate, which raised substantial doubt as to the entity's ability to continue as a going concern within one year after the date of the issuance, or the date of availability, of the financial statements to be issued, noting that there did not appear to be evidence of substantial doubt of the entity's ability to continue as a going concern.

Revenue Recognition: Revenue is recognized when persuasive evidence of an arrangement exists, delivery has occurred or services have been rendered, the sales price is fixed or determinable, and collectability is reasonably assured. Revenue from product sales are recognized when title and risk of loss have passed to the customer.

Provision for estimated chargebacks, rebates, discounts, managed care rebates, product returns and doubtful accounts is made at the time of sale and is analyzed and adjusted, if necessary, at each balance sheet date.

Freight: The Company records amounts billed to customers for shipping and handling as revenue, and records shipping and handling expense related to product sales as cost of sales.

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

Accounts Receivable: Trade accounts receivable are stated at their net realizable value. The nature of the Company's business involves, in the ordinary course, significant judgments and estimates relating to chargebacks, coupon redemption, product returns, rebates, discounts given to customers and allowances for doubtful accounts. Depending on the products, the customers, the specific terms of national supply contracts and the particular arrangements with the Company's wholesaler customers, rebates, chargebacks and other credits are recorded as deductions to the Company's trade accounts receivable.

Unless otherwise noted, the provisions and allowances for the following customer deductions are reflected in the accompanying condensed consolidated financial statements as reductions of revenues and trade accounts receivable, respectively.

Chargebacks**:** The Company enters into contractual agreements with certain third parties such as retailers, hospitals, group-purchasing organizations ("GPOs") and managed care organizations to sell certain products at predetermined prices. Similarly, we maintain an allowance for rebates and discounts related to billbacks, wholesaler fee for service contracts, GPO administrative fees, government programs, prompt payment and other adjustments with certain customers. Most of the parties have elected to have these contracts administered through wholesalers that buy the product from the Company and subsequently sell it to these third parties. As noted elsewhere, these wholesalers represent a significant percentage of the Company's gross sales. When a wholesaler sells products to one of these third parties that are subject to a contractual price agreement, the difference between the price paid to the Company by the wholesaler and the price under the specific contract is charged back to the Company by the wholesaler. This process typically takes four to six weeks, but for some products may extend to twelve weeks. The Company tracks sales and submitted chargebacks by product number and contract for each wholesaler. Utilizing this information, the Company estimates a chargeback percentage for each product and records an allowance as a reduction to gross sales when the Company records its sale of the products. The Company reduces the chargeback allowance when a chargeback request from a wholesaler is processed. Actual chargebacks processed by the Company can vary materially from period to period based upon actual sales volume through the wholesalers. However, the Company's provision for chargebacks is fully reserved for at the time revenues are recognized.

Management obtains product inventory reports from certain wholesalers to aid in analyzing the reasonableness of the chargeback allowance and to monitor whether wholesaler inventory levels do not significantly exceed customer demand. The Company assesses the reasonableness of its chargeback allowance by applying a product chargeback percentage that is based on a combination of historical activity and future price and mix expectations to the quantities of inventory on hand at the wholesalers according to wholesaler inventory reports. In addition, the Company estimates the percent of gross sales generated through direct and indirect sales channels and the percent of contract vs. non-contract revenue in the period, as these each affect the estimated reserve calculation. In accordance with its accounting policy, the Company also estimates the percent of wholesaler inventory that will ultimately be sold to third parties that are subject to contractual price agreements based on a trend of such sales through wholesalers. The Company uses this percentage estimate until historical trends indicate that a revision should be made. On an ongoing basis, the Company evaluates its actual chargeback rate experience, and new trends are factored into its estimates each quarter as market conditions change.

For the three month period ended March 31, 2017, the Company incurred a chargeback provision of $280.2 million, or 41.2% of gross sales of $680.5 million, compared to $219.4 million, or 37.0% of gross sales of $593.4 million in the prior year period. We note that the dollar and percent increase in the comparative period was the result of gross sales increases and product mix shifts to products with higher chargeback expense percentages. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of contractual obligations, review of historical trends and evaluation of recent activity. Furthermore, other events that could materially alter chargeback rates include: changes in product pricing as a result of competitive market dynamics or negotiations with customers, changes in demand for specific products due to external factors such as competitor supply position or consumer preferences, customer shifts in buying patterns from direct to indirect through wholesalers, which could either individually or in aggregate increase or decrease the chargeback rate depending on the direction and velocity of the change(s).

To better understand the impact of changes in chargeback reserve based on circumstances that are not fully outside the Company's control, for instance, the ratio of sales subject to chargeback to indirect sales, the Company performs a sensitivity analysis. Holding all other assumptions constant, for a 119 basis point ("BP") change in the ratio of sales subject to chargeback to indirect sales would increase the chargeback reserve by $0.5 million or decrease the chargeback reserve by $1.0 million depending on the change in the direction of the ratio. Fundamentally, the BP change calculation is determined based on the six month trend of the average ratio of sales subject to chargeback to indirect sales. Due to the competitive generic pharmaceutical industry and our recent experience with wholesalers' strategy and shifts in contracted and non-contracted indirect sales, we believe that the six month trend of the proportion of direct to indirect sales provides a representative basis for sensitivity analysis.

Starting with the second quarter of 2016, the Company determined that in order to more closely align with internal analysis of associated reserves it would adjust the allowances disclosure to separately report rebates from chargebacks and rebates for both net trade accounts receivable and gross sales adjustments and to consolidate administrative fees and others with rebates for purposes of reporting gross sales to net revenue reserves. As a result, the first quarter 2016 information has been recast to reflect this disclosure change.

Rebates, Administrative Fees and Others: The Company maintains an allowance for rebates, administrative fees and others, related to contracts and other rebate programs that it has in place with certain customers. Rebates, administrative fees and other percentages vary by product and by volume purchased by each eligible customer. The Company tracks sales by product number for each eligible customer and then applies the applicable rebate, administrative fees and other percentage, using both historical trends and actual experience to estimate its rebates, administrative fees and others allowances. The Company reduces gross sales and increases the rebates, administrative fees and others allowance by the estimated rebates, administrative fees and others amounts when the Company sells its products to eligible customers. The Company reduces the rebate allowance when it processes a customer request for a rebate. At each balance sheet date, the Company analyzes the allowance for rebates, administrative fees and others against actual rebates processed and makes adjustments as appropriate. The amount of actual rebates processed can vary materially from period to period as discussed below.

The allowances for rebates, administrative fees and others further takes into consideration price adjustments which are credits issued to reflect increases or decreases in the invoice or contract prices of the Company's products. In the case of a price decrease, a shelf-stock adjustment credit may be given for product remaining in customer's inventories at the time of the price reduction. Contractual price protection results in a similar credit when the invoice or contract prices of the Company's products increase, effectively allowing customers to purchase products at previous prices for a specified period of time. Amounts recorded for estimated shelf-stock adjustments and price protections are based upon specified terms with direct customers, estimated changes in market prices, and estimates of inventory held by customers. The Company regularly monitors these and other factors and evaluates the reserve as additional information becomes available.

Similar to rebates, the reserve for administrative fees and others represents those amounts processed related to contracts and other fee programs which have been in place with certain entities, but they are settled through cash payment to these entities and accordingly are accounted for as a current liability. Otherwise, administrative fees and others operate similarly to rebates.

For the three month period ended March 31, 2017 the Company recorded a rebates, administrative fees and others provision of $124.4 million, or 18.3% of gross sales of $680.5 million, compared to $88.3 million, or 14.9% of gross sales of $593.4 million in the prior year period. We note that the dollar and percent increase from the comparative period was the result of gross sales increases and product mix shifts to products with higher rebates, administrative fees and others expense percentages. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of contractual obligations, review of historical trends and evaluation of recent activity. Furthermore, other events that could materially alter rebates, administrative fees and others rates include: changes in product pricing as a result of competitive market dynamics or negotiations with customers, changes in demand for specific products due to external factors such as competitor supply position or consumer preferences, customer shifts in buying patterns from direct to indirect through wholesalers, which could either individually or in aggregate increase or decrease the rebate rate depending on the direction and velocity of the change(s).

To better understand the impact of changes in reserves for rebates, administrative fees and others based on circumstances that are not fully outside the Company's control, for instance, the proportion of direct to indirect sales subject to rebates, administrative fees and others, the Company performs a sensitivity analysis. Holding all other assumptions constant, for a 119 BP change in the ratio of sales subject to rebates, administrative fees and others to indirect sales would increase the reserve for rebates, administrative fees and others by $0.2 million or decrease the same reserve by $0.2 million depending on the direction of the change in the ratio. Fundamentally, the BP change calculation is determined based on the six month trend of the average ratio of sales subject to rebates, administrative fees and others to indirect sales. Due to the competitive generic pharmaceutical industry and our recent experience with wholesalers' strategy and shifts in contracted and non-contracted indirect sales, we believe the six month trend of the average ratio of sales subject to rebates, administrative fees and others to indirect sales provides a representative basis for sensitivity analysis.

Sales Returns: Certain of the Company's products are sold with the customer having the right to return the product within specified periods. Provisions are made at the time of sale based upon historical experience. Historical factors such as one-time recall events as well as pending new developments like comparable product approvals or significant pricing movement that may impact the expected level of returns are taken into account to determine the appropriate reserve estimate at each balance sheet date. As part of the evaluation of the reserve required, the Company considers actual returns to date that are in process, the expected impact of any product recalls and the amount of wholesaler's inventory to assess the magnitude of unconsumed product that may result in sales returns to the Company in the future. The sales returns level can be impacted by factors such as overall market demand and market competition and availability for substitute products which can increase or decrease the pull through for sales of the Company's products and ultimately impact the level of sales returns.

For the three month period ended March 31, 2017, the Company incurred a return provision of $8.4 million, or 1.2% of gross sales of $680.5 million, compared to $4.3 million, or 0.7% of gross sales of $593.4 million in the prior year period. We note that the dollar increase and percent decrease in the comparative period was the result of gross sales increases and product mix shifts to products with higher return rates. The Company ensures that this rate as a percent of gross sales is reasonable through inspection of historical trends and evaluation of recent activity. Furthermore, other events that could materially alter return rates include: acquisitions and integration activities that consolidate dissimilar contract terms and could decrease the return rate as typically the Company purchases smaller entities with less contracting power and integrates those product sales to Akorn contracts; and consumer demand shifts by products, which could either increase or decrease the return rate depending on the product or products specifically demanded and ultimately returned.

To better understand the impact of changes in return reserve based on certain circumstances, the Company performs a sensitivity analysis. Holding all other assumptions constant, for an average 1.0 month change in the lag from the time of sale to the time the product return is processed, this change would result in an increase of $1.8 million or decrease of $1.5 million in return reserve expense if the lag increases or decreases, respectively. The average 1.0 month change in the lag from the time of sale to the time the product return is processed was determined based on the average variances of the last six-month historical activities. Due to the change in the volume and type of products sold by the Company in the recent past, we have determined that the lag calculation provides a reasonable basis for sensitivity analysis.

Allowance for Coupons, Promotions and Co-Pay discount cards: The Company issues coupons from time to time that are redeemable against certain of our Consumer Health products. Upon release of coupons into the market, the Company records an estimate of the dollar value of coupons expected to be redeemed. This estimate is based on historical experience and is adjusted as needed based on actual redemptions. In addition to couponing, from time to time the Company authorizes various retailers to run in-store promotional sales of its products. Upon receiving confirmation that a promotion was run, the Company accrues an estimate of the dollar amount expected to be owed back to the retailer. This estimate is then adjusted to actual upon receipt of an invoice from the retailer. Additionally, the Company provides consumer co-pay discount cards, administered through outside agents to provide discounted products when redeemed. Upon release of the cards into the market, the Company records an estimate of the dollar value of co-pay discounts expected to be utilized. This estimate is based on historical experience and is adjusted as needed based on actual experience.

Doubtful Accounts: Provisions for doubtful accounts, which reflect trade receivable balances owed to the Company that are believed to be uncollectible, are recorded as a component of selling, general and administrative ("SG&A") expenses. In estimating the allowance for doubtful accounts, the Company considers its historical experience with collections and write-offs, the credit quality of its customers and any recent or anticipated changes thereto, and the outstanding balances and past due amounts from its customers. Note that in the ordinary course of business, and consistent with our peers, we may from time to time offer extended payment terms to our customers as an incentive for new product launches or in other circumstances in accordance with standard industry practices. These extended payment terms do not represent a significant risk to the collectability of accounts receivable as of the period-end and are evaluated in accordance with *Accounting Standards Codification* ("ASC") *605 - Revenue Recognition* as applicable. Accounts are considered past due when they remain uncollected beyond the due date specified in the applicable contract or on the applicable invoice, whichever is deemed to take precedence.

Advertising and Promotional Allowances to Customers: The Company routinely sells its over-the-counter Consumer Health products to major retail drug chains. From time to time, the Company may arrange for these retailers to run in-store promotional sales of the Company's products. The Company reserves an estimate of the dollar amount owed back to the retailer for these promotions, recording the amount as a reduction to revenue at the later of the date which the revenue is recognized or the date the sales incentive is offered. When the actual invoice for the sales promotion is received from the retailer, the Company adjusts its estimate accordingly. Advertising and promotional expenses paid to customers are expensed as incurred in accordance with *ASC 605-50 - Customer Payments and Incentives*.

Inventories: Inventories are stated at the lower of cost and net realizable value ("NRV") (see Note 5 - *Inventories, net*). The Company maintains an allowance for slow-moving and obsolete inventory as well as inventory where the cost is in excess of its NRV. For finished goods inventory, the Company estimates the amount of inventory that may not be sold prior to its expiration or is slow-moving based upon recent sales activity by unit and wholesaler inventory information. The Company also analyzes its raw material and component inventory for slow-moving items and NRV.

The Company capitalizes inventory costs associated with its products prior to regulatory approval when, based on management judgment, future commercialization is considered probable and future economic benefit is expected to be realized. The Company assesses the regulatory approval process and where the product stands in relation to that approval process including any known constraints or impediments to approval. The Company also considers the shelf life of the product in relation to the product timeline for approval.

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 useful lives.

Intangible Assets: Intangible assets consist primarily of goodwill, which is carried at its initial value, In-Process Research and Development ("IPR&D"), which is accounted for as an indefinite-lived intangible asset, subject to impairment testing until completion or abandonment of the project, and product licensing costs, trademarks and other such costs, which are capitalized and amortized on a straight-line basis over their useful lives, normally ranging from one year to thirty years. The Company regularly assesses its amortizable intangible assets for impairment based on several factors, including estimated fair value and anticipated cash flows. If the Company incurs additional costs to renew or extend the life of an intangible asset, such costs are added to the remaining unamortized cost of the asset, if any, and the sum is amortized over the extended remaining life of the asset. Goodwill is tested for impairment annually or more frequently if changes in circumstances or the occurrence of events suggest that impairment may exist. The Company uses widely accepted valuation techniques to determine the fair value of its reporting units used in its annual goodwill impairment analysis. The Company's valuation is primarily based on qualitative and quantitative assessments regarding the fair value of the reporting unit relative to its carrying value. The Company models the fair value of the reporting unit based on projected earnings and cash flows of the reporting unit.

Impairments of IPR&D are recorded in R&D expenses in the Consolidated Statements of Comprehensive Income, while all other impairments of intangible assets are recorded in impairment of intangible assets line.

Net Income Per Common Share: Basic net income per common share is based upon the 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, if any, of stock options, restricted stock and convertible securities using the treasury stock and if converted methods. Anti-dilutive shares are excluded from the computation of diluted net income per share.

Income Taxes: Income taxes are accounted for under the asset and liability method. Deferred income tax assets and liabilities are determined based on differences between financial reporting and tax bases of assets and liabilities, and net operating loss and other tax credit carry-forwards. These items are measured using the enacted tax rates and laws that will be in effect when the differences are expected to reverse. The Company records a valuation allowance to reduce the deferred income tax assets to the amount that is more likely than not to be realized.

Fair Value of Financial Instruments: The Company applies *ASC 820 - Fair Value Measurement*, which establishes a framework for measuring fair value and clarifies the definition of fair value within that framework. *ASC 820 - Fair Value Measurement* defines fair value as an exit price, which is the price that would be received for an asset or paid to transfer a liability in the Company's principal or most advantageous market in an orderly transaction between market participants on the measurement date. The fair value hierarchy established in *ASC 820 - Fair Value Measurement* generally requires an entity to maximize the use of observable inputs and minimize the use of unobservable inputs when measuring fair value. Observable inputs reflect the assumptions that market participants would use in pricing the asset or liability and are developed based on market data obtained from sources independent of the reporting entity. Unobservable inputs reflect the entity's own assumptions based on market data and the entity's judgments about the assumptions that market participants would use in pricing the asset or liability, and are to be developed based on the best information available in the circumstances.

The valuation hierarchy is composed of three levels. The classification within the valuation hierarchy is based on the lowest level of input that is significant to the fair value measurement. The levels within the valuation hierarchy are described below:

- *Level 1*—Assets and liabilities with unadjusted, quoted prices listed on active market exchanges. Inputs to the fair value measurement are observable inputs, such as quoted prices in active markets for identical assets or liabilities. The carrying value of the Company's cash and cash equivalents and the portion of the value of the Nicox S.A. ("Nicox") shares which are available to be traded on the exchange are considered Level 1 assets.

- *Level 2*—Inputs to the fair value measurement are determined using prices for recently traded assets and liabilities with similar underlying terms, as well as directly or indirectly observable inputs, such as interest rates and yield curves that are observable at commonly quoted intervals. The Company has no Level 2 assets or liabilities in any of the periods presented.

- *Level 3*—Inputs to the fair value measurement are unobservable inputs, such as estimates, assumptions, and valuation techniques when little or no market data exists for the assets or liabilities. The portion of the fair valuation of the available-for-sale investment held in shares of Nicox stock that is subject to a lock-up provision is considered a Level 3 asset. The additional consideration payable as a result of prior years' divestitures and other insignificant contingent amounts are considered Level 3 liabilities.

The following table summarizes the basis used to measure the fair values of the Company's financial instruments (amounts in thousands):

		Fair Value Measurements at Reporting Date, Using:		
Description	**March 31, 2017**	**Quoted Prices in Active Markets for Identical Items (Level 1)**	**Significant Other Observable Inputs (Level 2)**	**Significant Unobservable Inputs (Level 3)**
Cash and cash equivalents	$ 307,425	$ 307,425	$ —	$ —
Available-for-sale securities	1,310	1,268	—	42
Total assets	$ 308,735	$ 308,693	$ —	$ 42
Purchase consideration payable	$ 4,994	$ —	$ —	$ 4,994
Total liabilities	$ 4,994	$ —	$ —	$ 4,994

Description	December 31, 2016	Quoted Prices in Active Markets for Identical Items (Level 1)	Significant Other Observable Inputs (Level 2)	Significant Unobservable Inputs (Level 3)
Cash and cash equivalents	$ 200,772	$ 200,772	$ —	$ —
Available-for-sale securities	1,106	1,074	—	32
Total assets	$ 201,878	$ 201,846	$ —	$ 32
Purchase consideration payable	$ 4,994	$ —	$ —	$ 4,994
Total liabilities	$ 4,994	$ —	$ —	$ 4,994

As of March 31, 2017, the Company was carrying available-for-sale investments in shares of Nicox stock fair valued at $1.3 million. In 2014, the Company acquired Nicox stock fair valued at $12.5 million, consisting of an original cost basis of $10.8 million, discounted to reflect certain lockup provisions preventing immediate sale of the underlying shares received, and $1.7 million unrealized gain from the original costs basis of $10.8 million. From 2014 through 2016, the Company sold available-for-sale Nicox stock with a total original cost basis of $9.2 million and realized immaterial losses through these sales. During the three month period ended March 31, 2017, the Company did not sell any available-for-sale securities, and as of March 31, 2017, recorded $0.2 million unrealized loss on the investment. An immaterial amount of the remaining $1.3 million of securities were subject to certain lockup provisions and as such, the fair value of that portion of the investment was estimated using observable and unobservable inputs to discount for lack of marketability.

The remaining purchase consideration payable is principally comprised of amounts owed relating to various prior years' divestitures, at fair value as determined based on the underlying contracts and the Company's subjective evaluation of the additional consideration obligation estimate.

Stock-Based Compensation: Stock-based compensation cost is estimated at grant date based on the fair value of the award, and the cost is recognized as expense ratably over the vesting period. The Company uses the Black-Scholes model for estimating the grant date fair value of stock options. Determining the assumptions to be used in the model is highly subjective and requires judgment. The Company uses an expected volatility that is based on the historical volatility of its common stock. The expected life assumption is based on historical employee exercise patterns and employee post-vesting termination behavior. The risk-free interest rate for the expected term of the option is based on the average market rate on U.S. Treasury securities of similar term in effect during the quarter in which the options were granted. The dividend yield reflects the Company's historical experience as well as future expectations over the expected term of the option. The Company estimates forfeitures at the time of grant and revises the estimate in subsequent periods, as necessary, if actual forfeitures differ from initial estimates.

Note 3 — Stock Options, Employee Stock Purchase Plan and Restricted Stock

The Company maintains equity compensation plans that allow the Company's Board of Directors to grant stock option and other equity awards to eligible employees, officers, directors and consultants. As of March 31, 2017, the active plan from which new awards could be granted was the Akorn, Inc. 2014 Stock Option Plan ("the 2014 Plan"), which was approved by shareholders at the Company's 2014 Annual Meeting of Shareholders on May 2, 2014 and subsequently amended by proxy vote of the Company's shareholders on December 16, 2016. The 2014 Plan reserved 7.5 million shares for issuance upon the grant of stock options, restricted stock units ("RSUs"), or various other instruments to directors, employers and consultants. The 2014 Plan replaced the Amended and Restated Akorn, Inc. 2003 Stock Option Plan (the "2003 Plan"), which expired on November 6, 2013, although previously granted awards remain outstanding under the 2003 Plan.

The Company uses the single-award method for allocating compensation cost related to stock options to each period. The following table sets forth the components of the Company's share-based compensation expense for the three month periods ended March 31, 2017 and 2016 (in thousands):

	Three Months Ended March 31,			
	2017		2016	
Stock options	$	3,314	$	2,049
Employee stock purchase plan		262		—
Restricted stock units		1,133		872
Total stock-based compensation expense	$	4,709	$	2,921

Stock Option awards

From time to time, the Company grants stock option awards to certain employees and directors. The weighted-average assumptions used in estimating the grant date fair value of the stock options granted under the 2014 Plan during the three -month periods ended March 31, 2017 and 2016, respectively, along with the weighted-average grant date fair values, are set forth in the table below:

	Three Months Ended March 31,			
	2017		2016	
Expected volatility		50%		47%
Expected life (in years)		4.8		4.8
Risk-free interest rate		1.75%		1.26%
Dividend yield		—		—
Fair value per stock option	$	9.25	$	9.95
Forfeiture rate		8%		8%

The table below sets forth a summary of stock option activity within the 2014 Plan and the 2003 Plan for the three month period ended March 31, 2017:

	Number of Options (in thousands)		Weighted Average Exercise Price	Weighted Average Remaining Contractual Term (Years)		Aggregate Intrinsic Value (in thousands) (1)
Outstanding at December 31, 2016	4,766	$	27.27	5.03	$	5,714
Granted	66		21.28			
Exercised	(88)		12.68			
Forfeited	(38)		31.83			
Outstanding at March 31, 2017	4,706	$	27.43	4.89	$	7,034
Exercisable at March 31, 2017	1,688	$	25.09	3.46	$	5,800

(1) The Aggregate Intrinsic Value for stock options outstanding and exercisable is defined as the difference between the market value of the Company's common stock as of the date indicated and the exercise price of the stock options. Stock options for which the exercise price exceeded the market price have been omitted. Fluctuations in the intrinsic value of both outstanding and exercisable options may result from changes in underlying stock price and the timing and volume of option grants, exercises and forfeitures.

During the three month period ended March 31, 2017, 0.1 million stock options were exercised resulting in cash payments to the Company of $1.1 million. These stock option exercises generated tax deductible expense of $0.8 million. During the three month period ended March 31, 2016, no stock options were exercised.

Restricted Stock Unit awards

From time to time, the Company has granted RSUs to certain executives, employees and directors. During 2016, the Company adopted a new Long-Term Incentive Plan for salaried, non-executive employees. That plan called for annual grants of RSUs to all such eligible employees, and the first such grants took place on July 1, 2016. These grants were calculated based on the average pay by employee class and vest 25% per year on each of the first four anniversaries of the grant date. All RSUs are valued at the closing market price of the Company's common stock on the day of grant and the total value of the units is recognized as expense ratably over the vesting period of the grants.

During the three month period ended March 31, 2017, there were no grants of new RSU awards, and no existing RSUs either vested or were released to holders. Set forth below is a summary of non-vested RSU activity during the three month period ended March 31, 2017:

	Number of Units (in thousands)	Weighted Average Per Share Grant Date Fair Value	
Non-vested at December 31, 2016	416	$	31.52
Granted	—	$	—
Vested	—	$	—
Forfeited	(6)	$	29.50
Non-vested at March 31, 2017	410	$	31.55

Employee Stock Purchase Plan

The 2016 Akorn, Inc. Employee Stock Purchase Plan (the "ESPP") permits eligible employees to acquire shares of the Company's common stock through payroll deductions. The ESPP has been structured to qualify under Section 423 of the Internal Revenue Code ("IRC"). Employees who elect to participate in the ESPP may withhold from 1% to 15% of eligible wages toward the purchase of stock. Shares will be purchased at a 15% discount off the lesser of the market price at the beginning or the ending of the applicable offering period. The ESPP is designed with two offering periods each year, one running from January 1st to December 31st and the other running from July 1st to December 31st. In a given year, employees may enroll in either offering period, but not both. Per IRC rules, annual purchases per employee are limited to $25,000 worth of stock, valued as of the beginning of the offering period. Accordingly, with the 15% discount, employees may withhold no more than $21,250 per year toward the purchase of stock under the ESPP. Employees are further limited to purchasing no more than 15,000 shares of stock per year. A total of 2.0 million shares of the Company's stock have been set aside for issuance under the ESPP. The ESPP was approved by vote of the Company's shareholders on December 16, 2016.

The initial offering period under the ESPP began in January 2017 and is scheduled to run through the end of the year. During the quarter ended March 31, 2017, participants contributed approximately $0.9 million through payroll deductions toward the future purchase of shares under the ESPP.

Note 4 — Accounts Receivable, Sales and Allowances

The nature of the Company's business inherently involves, in the ordinary course, significant amounts and substantial volumes of transactions and estimates relating to allowances for product returns, chargebacks, rebates, doubtful accounts and discounts given to customers. This is typical of the pharmaceutical industry and is not necessarily specific to the Company. Depending on the product, the end-user customer, the specific terms of national supply contracts and the particular arrangements with the Company's wholesaler customers, certain rebates, chargebacks and other credits are deducted from the Company's accounts receivable. The process of claiming these deductions depends on wholesalers reporting to the Company the amount of deductions that were earned under the terms of the respective agreement with the end-user customer (which in turn depends on the specific end-user customer, each having its own pricing arrangement, which entitles it to a particular deduction). This process can lead to partial payments to the Company against outstanding invoices as the wholesalers take the claimed deductions at the time of payment.

With the exception of the provision for doubtful accounts, which is reflected as part of selling, general and administrative expense, the provisions for the following customer reserves are reflected as a reduction of revenues in the accompanying condensed consolidated statements of comprehensive income. Additionally, with the exception of administrative fees and others, which is included as a current liability, the ending reserve balances are included in trade accounts receivable, net in the Company's condensed consolidated balance sheets.

In the quarter ended June 30, 2016, the Company determined that in order to more closely align with internal analysis of associated reserves it would adjust the allowances disclosure to separately report rebates from chargebacks and rebates for both net trade accounts receivable and gross sale adjustments and to consolidate administrative fees and others with rebates for purposes of reporting gross sales to net revenues. As a result, information as of and for the three month period ended March 31, 2016 has been recast to reflect this disclosure change.

Net trade accounts receivable consists of the following (in thousands):

	March 31, 2017	December 31, 2016
Gross accounts receivable (1)	$ 462,013	$ 519,175
Less reserves for:		
Chargebacks	(77,472)	(80,360)
Rebates	(93,449)	(97,935)
Product returns	(45,660)	(43,689)
Discounts and allowances	(10,293)	(12,389)
Advertising and promotions	(641)	(688)
Doubtful accounts	(816)	(960)
Trade accounts receivable, net	$ 233,682	$ 283,154

(1) The reduction in the Gross accounts receivable balance as of March 31, 2017 when compared to the December 31, 2016 balance is due to higher Gross sales in the last two months of the fourth quarter of 2016 compared to the last two months of the first quarter of 2017.

For the three month periods ended March 31, 2017 and 2016, the Company recorded the following adjustments to gross sales (in thousands):

	Three Months Ended March 31,	
	2017	2016
Gross sales	$ 680,534	$ 593,392
Less adjustments for:		
Chargebacks (1)	(280,160)	(219,376)
Rebates, administrative and other fees (1)	(124,378)	(88,348)
Product returns	(8,418)	(4,286)
Discounts and allowances	(12,922)	(11,954)
Advertising, promotions and others	(1,236)	(1,081)
Revenues, net	$ 253,420	$ 268,347

(1) The increases in chargebacks and rebates, administrative and other fees for the three month periods ended March 31, 2017 as compared to the same period in 2016, were primarily due to product, customer mix, price erosion and volume declines. The price erosion and volume declines were due to increased industry pricing pressure and the competitive nature of our business.

Note 5 — Inventories, Net

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

	March 31, 2017	December 31, 2016
Finished goods	$ 73,918	$ 73,027
Work in process	10,819	14,719
Raw materials and supplies	87,588	87,047
Inventories, net	$ 172,325	$ 174,793

The Company maintains an allowance for excess and obsolete inventory, as well as inventory for which its cost is in excess of its net realizable value. Inventory at March 31, 2017 and December 31, 2016 was reported net of these reserves of $27.6 million and $33.5 million, respectively.

Note 6 — Property, Plant and Equipment, Net

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

	March 31, 2017	December 31, 2016
Land and land improvements	$ 17,645	$ 17,410
Buildings and leasehold improvements	93,106	88,825
Furniture and equipment	168,482	160,546
Sub-total	279,233	266,781
Accumulated depreciation	(113,322)	(108,425)
Property, plant and equipment in service, net	$ 165,911	$ 158,356
Construction in progress	86,745	80,048
Property, plant and equipment, net	$ 252,656	$ 238,404

At March 31, 2017 and December 31, 2016, property, plant and equipment, net, with a net carrying value of $68.9 million and $65.1 million, respectively, was located outside the United States at the Company’s manufacturing facilities in India and Switzerland.

The Company recorded depreciation expense of $5.4 million and $6.0 million during the three month periods ended March 31, 2017 and 2016, respectively.

Note 7 — Goodwill and Other Intangible Assets, Net

The following table provides a summary of the activity in goodwill by segment for the three month period ended March 31, 2017 (in thousands):

	Consumer Health	Prescription Pharmaceuticals	Total
Balances at December 31, 2016	$ 16,717	$ 267,576	$ 284,293
Currency translation adjustments	—	738	738
Acquisitions	—	—	—
Impairments	—	—	—
Dispositions	—	—	—
Balances at March 31, 2017	$ 16,717	$ 268,314	$ 285,031

The following table sets forth the major categories of the Company’s intangible assets as of March 31, 2017 and December 31, 2016, and the weighted average remaining amortization period as of March 31, 2017 and December 31, 2016 (dollar amounts in thousands):

	Gross Amount (1)	Accumulated Amortization	Reclass-ifications	Gross Impairment	Net Balance	Wtd Avg Remaining Amortization Period (years)
March 31, 2017						
Product licensing rights	$ 746,906	$ (197,563)	$ —	$ —	$ 549,343	10.4
IPR&D	173,757	—	—	(225)	173,532	N/A - Indefinite lived
Trademarks	16,000	(4,559)	—	—	11,441	18.0
Customer relationships	4,225	(1,863)	—	—	2,362	9.1
Other intangibles	11,235	(4,755)	—	—	6,480	5.9
	$ 952,123	$ (208,740)	$ —	$ (225)	$ 743,158	
December 31, 2016						
Product licensing rights	$ 790,143	$ (182,901)	$ 9,400	$ (52,637)	$ 564,005	10.5
IPR&D	187,007	—	(9,400)	(3,850)	173,757	N/A - Indefinite lived
Trademarks	16,000	(4,244)	—	—	11,756	18.0
Customer relationships	6,290	(3,863)	—	—	2,427	9.3
Other intangibles	11,235	(4,326)	—	—	6,909	6.0
	$ 1,010,675	$ (195,334)	$ —	$ (56,487)	$ 758,854	

The Company recorded amortization expense of $15.5 million and $16.5 million during the three month periods ended March 31, 2017 and 2016, respectively.

(1) Differences in the Gross Amounts between periods are due to either impairment of assets or the write down of fully amortized assets.

Note 8 — Financing Arrangements

Term Loans

Concurrent with the closing of its acquisition of Hi-Tech (the "Hi-Tech Acquisition"), Akorn, Inc. and its wholly-owned domestic subsidiaries (the "Akorn Loan Parties") entered into a $600.0 million Term Facility (the "Existing Term Facility") pursuant to a Loan Agreement dated April 17, 2014 (the "Existing Term Loan Agreement") between Akorn Loan Parties as borrowers, certain other lenders and JPMorgan Chase Bank, N.A. ("JPMorgan") acting as administrative agent. The Company may increase the loan amount up to an additional $150.0 million, or more, provided certain financial covenants and other conditions are satisfied. The proceeds received pursuant to the Existing Term Loan Agreement were used to finance the Hi-Tech Acquisition. Additionally and concurrent with the closing of its acquisition of VersaPharm, the Akorn Loan Parties entered into a $445.0 million Incremental Facility Joinder Agreement (the "Incremental Term Loan Facility") pursuant to a Loan Agreement (the "Incremental Term Loan Agreement") dated August 12, 2014 between Akorn Loan Parties as borrowers and JPMorgan as lender and administrative agent for certain other lenders. The proceeds received pursuant to the Incremental Term Loan Agreement were used to finance the VersaPharm acquisition. The Existing Term Facility and Incremental Term Loan Facility are collectively the "Term Loans" or the "Term Loan Agreements."

The Term Loans are secured by all of the assets of the Akorn Loan Parties, including springing control of the Company's primary deposit account pursuant to a deposit account control agreement.

Prior to February 16, 2016, the Term Loan Agreements required quarterly principal repayment equal to 0.25% of the initial aggregate loan amount beginning with the second full quarter following the closing date of the Existing Term Loan Agreement, with a final payment of the remaining principal balance due at maturity seven years from the date of closing of the Existing Term Loan Agreement. The Company was also able to prepay all or a portion of the remaining outstanding principal amount under the Term Loan Agreements at any time, or from time to time, subject to prior notice to the lenders and payment of applicable fees. Prepayment of principal was required should the Company incur any indebtedness not permitted under the Term Loan Agreements, or effect the sale, transfer or disposition of any property or asset, other than in the ordinary course of business. On February 16, 2016, the Company made a voluntary prepayment of its Existing Term Facility of $200.0 million which settled all future quarterly principal repayments of the Term Loan Agreements as denoted above until the date of the maturity of the Term Loan Agreements or April 16, 2021, although future voluntary principal repayments are permitted. As of March 31, 2017, outstanding debt under the Term Loans was $831.9 million and the Company was in full compliance with all applicable covenants which included customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities.

On May 20, 2015, the Company modified the Term Loan Agreements with JPMorgan and certain other lenders to remedy certain covenant defaults related to the fiscal year 2014 financial restatement by incurring nominal charges affected through a temporary interest rate increase and an upfront payment.

Prior to November 13, 2015, interest accrued based, at the Company's election, on an adjusted prime/federal funds rate or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 2.50% for ABR Loans, and 3.50% for Eurodollar Loans. Each such margin would decrease by 0.25% in the event of the Company's senior debt to EBITDA ratio for any quarter falling to 2.25:1.00 or below. During an event of default, as defined in the Term Loan Agreements, any interest rate would have been increased by 2.00% per annum. Per the Term Loan Agreements, the interest rate on LIBOR loans could not fall below 4.50%.

On November 13, 2015, the Company again modified the Term Loan Agreements with JPMorgan and certain other lenders to remedy certain remaining covenant defaults related to the FY 2014 financial restatement by incurring additional charges affected through a temporary interest rate increase and an upfront payment. During 2016, the Company incurred an additional $5.1 million of financing costs related to the 2014 restatement process that ended on May 10, 2016, and carried a deferred financing fees balance of $21.5 million at December 31, 2016.

During the three month period ended March 31, 2017, the Company amortized $1.3 million of the Term Loans-related costs, resulting in $20.2 million remaining balance of deferred financing fees at March 31, 2017. The Company will amortize this balance using the effective interest method over the life of the Term Loan Agreements.

Subsequent to November 13, 2015, interest accrues based, at the Company's election, on an adjusted prime/federal funds rate ("ABR Loan") or an adjusted LIBOR ("Eurodollar Loan") rate, plus a margin of 4.00% for ABR Loans, and 5.00% for Eurodollar Loans. As of the date of the filing of this Form 10-Q until the maturity of the Term Loans, the Company's spread will be based upon the Ratings Level applicable on such date as documented below. As of the period ended March 31, 2017, the Company was a Ratings Level I for the Term Loan Agreements.

Ratings Level	Index Ratings (Moody's/S&P)	Eurodollar Spread	ABR Spread
Level I	B1/B+ or higher	4.25%	3.25%
Level II	B2/B	4.75%	3.75%
Level III	B3/B- or lower	5.50%	4.50%

For the three month periods ended March 31, 2017 and 2016, the Company recorded interest expense of $10.9 million and $10.8 million, respectively in relation to the Term Loans.

JPMorgan Credit Facility

On April 17, 2014, the Akorn Loan Parties entered into a Credit Agreement (the "JPM Credit Agreement") with JPMorgan as administrative agent, and Bank of America, N.A., as syndication agent for certain other lenders (at closing, Bank of America, N.A. and Wells Fargo Bank, N. A.) for a $150.0 million revolving credit facility (the "JPM Revolving Facility").

Subject to other conditions in the JPM Credit Agreement, advances under the JPM Revolving Facility will be made in accordance with a borrowing base consisting of the sum of the following:

- (a) 85% of eligible accounts receivable;
- (b) The lesser of:
  - a. 65% of the lower of cost or market value of eligible raw materials and work in process inventory, valued on a first in first out basis, and
  - b. 85% of the orderly liquidation value of eligible raw materials and work in process inventory, valued on a first in first out basis;
- (c) The lesser of:
  - a. 75% of the lower of cost or market value of eligible finished goods inventory, valued on a first in first out basis, and
  - b. 85% of the orderly liquidation value of eligible finished goods inventory, valued on a first in first out basis up to 85% of the liquidation value of eligible inventory (or 75% of market value finished goods inventory); and

(d) Less any reserves deemed necessary by the administrative agent, and allowed in its permitted discretion.

The total amount available under the JPM Revolving Facility includes a $10.0 million letter of credit facility.

Under the terms of the JPM Credit Agreement, if availability under the JPM Revolving Facility falls below 12.5% of commitments or $15.0 million for more than 30 consecutive days, the Company may be subject to cash dominion, additional reporting requirements, and additional covenants and restrictions. The Company may seek additional commitments to increase the maximum amount of the JPM Revolving Facility to $200.0 million.

Unless cash dominion is exercised by the lenders in connection with the JPM Revolving Facility, the Company will be required to repay the JPM Revolving Facility upon its expiration five years from issuance, subject to permitted extension, and will pay interest on the outstanding balance monthly based, at the Company's election, on an adjusted prime/federal funds rate ("ABR") or an adjusted LIBOR ("Eurodollar"), plus a margin determined in accordance with the Company's consolidated fixed charge coverage ratio (EBITDA to fixed charges) as follows:

Fixed Charge Coverage Ratio	**Revolver ABR Spread**	**Revolver Eurodollar Spread**
Category 1 > 1.50 to 1.0	0.50%	1.50%
Category 2 > 1.25 to 1.00 but < 1.50 to 1.00	0.75%	1.75%
Category 3 < 1.25 to 1.00	1.00%	2.00%

In addition to interest on borrowings, the Company will pay an unused line fee of 0.25% per annum on the unused portion of the JPM Revolving Facility.

During an event of default, as defined in the JPM Credit Agreement, any interest rate will be increased by 2.00% per annum.

The JPM Revolving Facility is secured by all of the assets of the Akorn Loan Parties, including springing control of the Company's primary deposit account pursuant to a Deposit Account Control Agreement. The financial covenants require the Akorn Loan Parties to maintain the following on a consolidated basis:

(a) Minimum Liquidity, as defined in the JPM Credit Agreement, of not less than (a) $120.0 million plus (b) 25% of the JPM Revolving Facility commitments during the three month period preceding the June 1, 2016 maturity date of the Company's senior convertible notes.

(b) Ratio of EBITDA to fixed charges of no less than 1.00 to 1.00 (measured quarterly for the trailing 4 quarters).

As of March 31, 2017 the Company was in full compliance with all covenants applicable to the JPM Revolving Facility.

The Company may use any proceeds from borrowings under the JPM Revolving Facility for working capital needs and for the general corporate purposes of the Company and its subsidiaries. At March 31, 2017, there were no outstanding borrowings and one outstanding letter of credit in the amount of $2.2 million under the JPM Revolving Facility. Availability under the facility as of March 31, 2017 was $147.8 million.

The JPM Credit Agreement places customary limitations on indebtedness, distributions, liens, acquisitions, investments, and other activities of the Akorn Loan Parties in a manner designed to protect the collateral while providing flexibility for growth and the historic business activities of the Company and its subsidiaries.

Aggregate cumulative maturities of long-term obligations (including the Term Loans and the JPM Revolving Facility) as of March 31, 2017 are:

(In thousands)	2017	2018	2019	2020	Thereafter
Maturities of debt	$ —	$ —	$ —	$ —	$ 831,938

Note 9 — Earnings Per Share

Basic net income per common share is based upon the weighted average number of common shares outstanding during the period. Diluted net income per common share is based upon the weighted average number of common shares outstanding, including the dilutive effect, if any, of potentially dilutive securities using the treasury stock method. Additionally, For the three month period ended March 31, 2016, the earnings per share amount was calculated using the if-converted method to account for the dilutive impact of the Convertible Notes. The Convertible Notes matured in the quarter ended June 30, 2016.

The Company's potentially dilutive shares consist of: (i) vested and unvested stock options that are in-the-money, (ii) unvested RSUs, and (iii) for the three month period ended March 31, 2016, shares potentially issuable upon conversion of the Notes.

A reconciliation of the earnings per share data from a basic to a fully diluted basis is detailed below (amounts in thousands, except per share data):

	Three Months Ended March 31,	
	2017	2016
Net income	$ 41,027	$ 41,886
Convertible debt income adjustments, net of tax	—	604
Net income adjusted for convertible debt as used for diluted earnings per share	$ 41,027	$ 42,490
Net income per share:		
Basic	$ 0.33	$ 0.35
Diluted (1)	$ 0.33	$ 0.34
Shares used in computing net income per share:		
Weighted average basic shares outstanding	124,421	119,516
Dilutive securities:		
Stock option and unvested RSUs	245	1,172
Shares issuable upon conversion of the notes	—	4,933
Total dilutive securities	245	6,105
Weighted average diluted shares outstanding	124,666	125,621
Shares subject to stock options omitted from the calculation of income per share as their effect would have been anti-dilutive	4,093	2,430

(1) As a result of the Company's expectation that it would likely settle all future note conversions in shares of the Company's common stock, the diluted income from continuing operations per share calculation for the periods prior to the complete conversion of the convertible debt on June 1, 2016, included the dilutive effect of convertible debt and was offset by the exclusion of interest expense and deferred financing fees related to the convertible debt of $0.6 million, after-tax for the three month period ended March 31, 2016.

Note 10 — Segment Information

During the three month periods ended March 31, 2017 and 2016, the Company reported results for the following two reportable segments:

- Prescription Pharmaceuticals
- Consumer Health

The Company's Prescription Pharmaceuticals segment principally consists of generic and branded prescription pharmaceuticals products which span a broad range of indications as well as a variety of dosage forms including: sterile ophthalmics, injectables and inhalants, and non-sterile oral liquids, topicals and nasal sprays. The Company's Consumer Health segment principally consists of animal health and OTC products, both branded and private label. OTC products include, but are not limited to, a suite of products for the treatment of dry eye sold under the TheraTears® brand name.

Financial information about the Company's reportable segments is based upon internal financial reports that aggregate certain operating information. The Company's Chief Operating Decision Maker ("CODM"), as defined in *ASC 280 - Segment Reporting*, who is also the CEO, oversees operational assessments and resource allocations based upon the results of the Company's reportable segments, which have available and discrete financial information.

Selected financial information by reportable segment is presented below (in thousands):

	Three Months Ended March 31,	
	2017	**2016**
Revenues, net:		
Prescription Pharmaceuticals	$ 237,379	$ 250,749
Consumer Health	16,041	17,598
Total revenues, net	253,420	268,347
Gross Profit:		
Prescription Pharmaceuticals	141,319	154,635
Consumer Health	7,813	8,382
Total gross profit	149,132	163,017
Operating expenses	74,299	75,438
Operating income	74,833	87,579
Other expense	(9,507)	(21,007)
Income before income taxes	$ 65,326	$ 66,572

The Company manages its business segments to the gross profit level and manages its operating and other costs on a company-wide basis. Inter-segment activity at the gross profit level is minimal. The Company does not have discrete assets by segment, as certain manufacturing and warehouse facilities support more than one segment, and therefore does not report assets by segment. Financial information including revenues and gross profit from external customers by product or product line is not provided as to do so would be impracticable.

Note 11 – Share Repurchases

In July 2016, the Company announced that the Board of Directors authorized a stock repurchase program (the "Stock Repurchase Program") pursuant to which the Company may repurchase up to $200.0 million of the Company's common stock. The shares may be repurchased in open market transactions at prevailing market prices, in privately negotiated transactions or others, including accelerated stock repurchase arrangements, pursuant to a Rule 10b5-1 repurchase plan or by other means in accordance with federal securities laws. The timing and the amount of any repurchases will be determined by the Company's management based on its evaluation of market conditions, capital allocation alternatives, and other factors. There is no guarantee as to the number of shares that will be repurchased, and the repurchase program may be suspended or discontinued at any time without notice and at the Company's discretion, and at this time no estimate to the effect on the results of the Company due to the Stock Repurchase Program can be made.

The Company did not repurchase any shares during the three month period ended March 31, 2017, and had $155.0 million remaining under the repurchase authorization.

Companies incorporated under Louisiana law are subject to the Louisiana Business Corporation Act ("LBCA"). Provisions of the LBCA eliminate the concept of treasury stock and require that shares repurchased by a company are to be treated as authorized but unissued shares instead of treasury stock. As a result, all stock repurchases are presented as a reduction to issued and outstanding shares of common stock, the stated par value of common stock and retained earnings.

Note 12 — Commitments and Contingencies

The Company is subject to certain due-course complaints and claims arising out of its business, typically brought by competitors, suppliers, customers and others. In accordance with *ASC 450 - Contingencies*, the Company records reserves when loss is probable and the amount of loss can be reasonably estimated. As such, the Company believes that it has provided adequate reserves and that any matters currently pending will not materially affect the condensed, consolidated financials of the Company as of the period end.

The Company has entered into strategic business agreements for the development and marketing of finished dosage form pharmaceutical products with various pharmaceutical development companies.

Each strategic business agreement includes a future payment schedule for contingent milestone payments and in certain strategic business agreements, minimum royalty payments. The Company will be responsible for contingent milestone payments and minimum royalty payments to these strategic business partners based upon the occurrence of future events. Each strategic business agreement defines the triggering event of its future payment schedule, such as meeting product development progress timelines, successful product testing and validation, successful clinical studies, various FDA and other regulatory approvals and other factors as negotiated. None of the contingent milestone payments or minimum royalty payments are individually material to the Company.

The Company is engaged in various supply agreements with third parties which obligate the Company to purchase various active pharmaceutical ingredients ("API") or finished products at contractual minimum levels. None of these agreements are individually or in aggregate material to the Company. Further, the Company does not believe at this time that any of the purchase obligations represent levels above that of normal business demands.

The table below summarizes contingent potential milestone payments due to strategic partners in the years 2017 and beyond, assuming all such contingencies occur (in thousands):

Year ending December 31,		Amount
2017	$	5,247
2018		9,392
2019		70
2020 and Beyond		800
Total	$	15,509

Legal Proceedings

The Company is a party to legal proceedings and potential claims arising in the ordinary course of our business. The amount, if any, of ultimate liability with respect to such matters cannot be determined, but despite the inherent uncertainties of litigation, management of the Company believes that the ultimate disposition of such proceedings and exposure will not have a material adverse impact on the financial condition, results of operations, or cash flows of the Company. Set forth below are material updates to legal proceedings of the Company.

As previously disclosed in various reports filed with the SEC, on March 4, 2015, a purported class action complaint was filed entitled *Yeung v. Akorn, Inc., et al.*, in the federal district court of Northern District of Illinois, No. 15-cv-1944. The complaint alleged that the Company and three of its officers violated the federal securities laws in connection with matters related to its accounting and financial reporting in the wake of its acquisitions of Hi-Tech Pharmaceutical Co., Inc. and VersaPharm, Inc. A second, related case entitled *Sarzynski v. Akorn, Inc., et al.*, No. 15-cv-3921, was filed on May 4, 2015 making similar allegations. On August 24, 2015, the two cases were consolidated and a lead plaintiff appointed in *In re Akorn, Inc. Securities Litigation*. On July 5, 2016, the lead plaintiff group filed a consolidated amended complaint making similar allegations against the Company and an officer and former officer of the Company. The consolidated amended complaint seeks damages on behalf of the putative class. On August 9, 2016, the defendants filed a motion to dismiss the case. On March 6, 2017, the court denied the motion to dismiss and the defendants subsequently filed an answer to the consolidated amended complaint on March 27, 2017. The case is now in the discovery phase, and no trial date has been scheduled.

As previously disclosed in various reports filed with the SEC, the Company's Board of Directors also received shareholder demand letters and four shareholder derivative lawsuits have been filed alleging breaches of fiduciary duty in connection with the Company's accounting for its acquisition and the restatement of its financials. Two of the derivative lawsuits, *Safriet v. Rai, et al.,* No. 15-cv-7275, and *Glaubach v. Rai, et al*., No. 15- 11129, which were filed in the U.S. District Court for the Northern District of Illinois, had been stayed pending anticipated rulings on the defendants' motion to dismiss in *In re Akorn, Inc. Securities Litigation.* The two cases have been consolidated into a single action and the stay lifted. Plaintiffs in the consolidated action have not yet filed or designated a consolidated complaint.

As previously disclosed in various reports filed with the SEC, *Fera Pharmaceuticals, LLC v. Akorn Inc., Sean Brynjelsen, and Michael Stehn*, in the United States District Court for the Southern District of New York, Case No. 12-cv-07692-LLS. Fera Pharmaceuticals, LLC ("Fera") filed this action on September 12, 2012. The defendants in the case are the Company, one former employee of the Company, Sean Brynjelsen, and a current employee of the Company, Michael Stehn. The amended complaint generally alleges that the Company breached certain terms of a contract manufacturing supply agreement by, among other things, failing to manufacture Fera's products, raising the manufacturing cost, and impermissibly terminating the contract. In addition, Fera alleges that the Company misappropriated Fera's trade secrets in order to manufacture Erythromycin and Bacitracin for its own benefit. The counts in the amended complaint are for (1) breach of contract, (2) misappropriation of trade secrets, (3) fraudulent inducement, and (4) declaratory and injunctive relief. Fera seeks $135 million in compensatory damages, an additional, unspecified amount in punitive damages, and injunctive relief restraining the Company from selling the products at issue in the case. The Company filed a counterclaim against Fera and certain affiliates, as well as Perrigo Company of Tennessee and Perrigo Company plc, asserting violations of Sections 1 and 2 of the Sherman Act and tortious interference with business relations. The case is still in the discovery phase, with fact discovery expected to close approximately at the end of May 2017, and expert discovery expected to be completed by September 1, 2017. The court has indicated it would like the trial to commence in mid-October 2017, but has not entered a scheduling order to that effect.

As previously disclosed in various reports filed with the SEC, *State of Louisiana v. Abbott Laboratories, Inc., et al.* The Louisiana Attorney General filed suit, Number 624,522, Nineteenth Judicial District Court, Parish of East Baton Rouge, including Hi-Tech Pharmacal and other defendants, in Louisiana state court. Louisiana's complaint alleges that the defendants violated Louisiana state laws in connection with Medicaid reimbursement for certain vitamins, dietary supplements, and DESI products that were allegedly ineligible for reimbursement. The defendants filed exceptions of no cause of action and no right of action in response to Louisiana's amended complaint. In a judgment entered on October 2, 2015, the trial court sustained the defendants' exception of no right of action, which dismissed all of Louisiana's claims. Louisiana sought appellate review of the court's decision by filing an application for supervisory writs, as well as an appeal pending in the First Circuit Court of Appeal in Louisiana. On October 21, 2016, the First Circuit Court of Appeal affirmed the trial court's judgment in part, reversed it in part, and remanded the case for further proceedings. Specifically, the First Circuit affirmed the dismissal of four of the six causes of action pled in Louisiana's amended complaint, but reversed the dismissal with respect to the two remaining statutory claims. On December 22, 2016, the First Circuit denied Louisiana's application for rehearing with respect to the First Circuit's affirmance. On January 20, 2017, Louisiana filed an application for certiorari in the Louisiana Supreme Court as to the portion of the First Circuit's decision affirming the trial court's judgment. On January 23, 2017, the defendants filed an application for certiorari in the Louisiana Supreme Court as to the portion of the First Circuit's decision reversing the trial court's judgment. On March 13, 2017, the Louisiana Supreme Court denied both writ applications. On March 31, 2017, the trial court judge entered an order permitting Defendants to respond to the State's First Amended Petition on or before May 11, 2017. There are presently no other scheduled dates in the proceeding.

In addition to the foregoing matters, Akorn has received shareholder demands for legal action to be taken against certain of the Company's directors and officers based on alleged breaches of fiduciary duties and other misconduct in connection with the Company's restatement of financial results and other matters. Akorn's Board of Directors formed a special committee that conducted an inquiry into the demand allegations and provided its conclusions and recommendations to the Board.

On April 7, 2017, a jury in the State Court of Houston County in the State of Georgia reached a verdict of $20.5 million in damages against Akorn, Inc. in the product liability case *Ann Pope and Anthony Pope v. Horatio V. Cabasares, M.D., Horatio V. Cabasares, M.D., P.C. Houston Healthcare Systems, Inc., Akorn Sales, Inc., and Akorn, Inc.* in which plaintiff claimed Akorn provided inadequate labeling on its product methylene blue. The Company maintains sufficient product liability insurance coverage for the defense costs and expenses as well as the verdict related to this case. Further, on April 27, 2017, Akorn filed a motion for a new trial and intends to appeal, thereby challenging liability as well as the compensatory and punitive damage awards.

The legal matters discussed above and others could result in losses, including damages, fines and civil penalties, and criminal charges, which could be substantial. We record accruals for these contingencies to the extent that we conclude that a loss is both probable and reasonably estimable. Regarding the aforementioned labeling verdict related to methylene blue, the Company recorded a reasonable estimate of the liability less than the verdict amount (for which a corresponding insurance receivable is also recorded). Regarding the other matters disclosed above, the Company has determined that liabilities associated with these legal matters are reasonably possible but they cannot be reasonably estimated.

Given the nature of the litigation and investigations and the complexities involved, the Company is unable to reasonably estimate a possible loss for such matters until the Company knows, among other factors, (i) what claims, if any, will survive dispositive motion practice, (ii) the extent of the claims, including the size of any potential class, particularly when damages are not specified or are indeterminate, (iii) how the discovery process will affect the litigation, (iv) the settlement posture of the other parties to the litigation and (v) any other factors that may have a material effect on the litigation or investigation. However, we could incur judgments, enter into settlements or revise our expectations regarding the outcome of certain matters, and such developments could have a material adverse effect on our results of operations in the period in which the amounts are accrued and/or our cash flows in the period in which the amounts are paid.

Note 13 — Customer, Supplier and Product Concentration

Customer Concentrations

A significant percentage of the Company's sales are to three wholesale drug distributors: AmerisourceBergen Corporation; Cardinal Health, Inc. and McKesson Corporation. These three wholesalers (the "Big 3 Wholesalers") are all distributors of the Company's products, as well as suppliers of a broad range of health care products.

The following table sets forth the percentage of the Company's gross and net sales for the three month periods ended March 31, 2017 and 2016, and gross accounts receivable as of March 31, 2017 and December 31, 2016, attributable to the Big 3 Wholesalers:

	Three Months Ended March 31,	
Big 3 Wholesalers combined:	**2017**	**2016**
Percentage of gross sales	79%	76%
Percentage of net revenues	64%	62%

	March 31, 2017	December 31, 2016
Percentage of gross trade accounts receivable	83%	84%

If sales to any of the Big 3 Wholesalers were to diminish or cease, the Company believes that the end users of its products would have little difficulty obtaining the Company's products either directly from the Company or from another distributor.

No other customers accounted for more than 10% of gross sales, net revenues or gross trade receivables for the indicated dates and periods.

Supplier Concentrations

The Company requires a supply of quality raw materials and components to manufacture and package pharmaceutical products for its own use 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. Certain of these ingredients and components are available from only a single source and, in the case of certain of the Company's abbreviated new drug applications and new drug applications, 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. In addition, certain of the pharmaceutical products marketed by the Company are manufactured by a partnered third party manufacturer, which serves as the Company's sole source of that finished product. 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. Likewise, if the Company's manufacturing partners experience any similar difficulties in obtaining raw materials or in manufacturing the finished product, the Company's results of operations would be negatively impacted.

No individual supplier represented 10% or more of the Company's purchases in either of the three month periods ended March 31, 2017 or 2016.

Product Concentrations

In the three month periods ended March 31, 2017 and 2016, one Prescription Pharmaceutical product represented approximately 19% and 18%, respectively of the Company's total net sales revenue. The Company attempts to minimize the risk associated with product concentrations by continuing to acquire and develop new products to add to its existing portfolio.

Note 14 — Income Taxes

The following table sets forth information about the Company's income tax provision for the periods indicated (dollar amounts in thousands):

	Three Months Ended March 31,	
	2017	2016
Income before income taxes	$ 65,326	$ 66,572
Income tax provision	24,299	24,686
Net income	$ 41,027	$ 41,886
Income tax provision as a percentage of income before income taxes	37.2%	37.1%

During the three month periods ended March 31, 2017 and 2016, the Company recorded an income tax provision of $24.3 million and $24.7 million, or 37.2% and 37.1% of income before income taxes, respectively. The Company anticipates that its effective tax rate will for the year 2017 will be approximately 37.5%. The income tax provision rate in the current year was increased in comparison to the prior year due to losses at the Company's Indian and Swiss subsidiaries.

As of March 31, 2017, the Company could not conclude that it was more likely than not that tax benefits from certain of these net operating losses would be realized. Accordingly, as of March 31, 2017, the Company increased its valuation allowance to $11.2 million for certain of the losses at its Indian subsidiary and the entire amount of the loss at its Swiss subsidiary, compared to a valuation allowance of $9.9 million as of December 31, 2016.

In accordance with ASC 740-10-25, *Income Taxes - Recognition*, the Company reviews its tax positions to determine whether it is "more likely than not" that its tax positions will be sustained upon examination, and if any tax positions are deemed to fall short of that standard, the Company establishes reserves based on the financial exposure and the likelihood that its tax positions would not be sustained. Based on its evaluations, the Company determined that it would not recognize tax benefits on $1.4 million and $1.3 million related to uncertain tax positions as of March 31, 2017 and December 31, 2016, respectively. If recognized, of the $1.4 million of uncertain tax positions as of March 31, 2017, $1.2 million of these tax positions will impact the Company's effective rate with the remaining $0.2 million affecting goodwill.

Note 15 – Related Party Transactions

During the three month periods ended March 31, 2017 and 2016, the Company obtained legal services totaling $0.5 million and $0.4 million, of which $0.3 million and $0.1 million was payable as of March 31, 2017 and 2016, respectively, to Polsinelli PC, a law firm for which the spouse of the Company's Executive Vice President, General Counsel and Secretary is an attorney and shareholder.

The Company also paid legal services totaling $0.1 million during the three month period ended March 31, 2017 to Segal McCambridge Singer & Mahoney, a firm for which the brother in law of the Company's Executive Vice President, General Counsel and Secretary is a partner.

Note 16 – Recently Issued and Adopted Accounting Pronouncements

Recently Issued Accounting Pronouncements

In November 2016, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. *2016-18, Statement of Cash Flows (Topic 230): Restricted Cash (a consensus of the FASB Emerging Issues Task Force)*, which addresses classification and presentation of changes in restricted cash on the statement of cash flows. The standard requires an entity's reconciliation of the beginning-of-period and end-of-period total amounts shown on the statement of cash flows to include in cash and cash equivalents amounts generally described as restricted cash and restricted cash equivalents. The ASU does not define restricted cash or restricted cash equivalents, but an entity will need to disclose the nature of the restrictions. The ASU is effective for public business entities for annual and interim periods in fiscal years beginning after December 15, 2017. Early adoption is permitted, including adoption in an interim period. If an entity early adopts the amendments in an interim period, adjustments should be reflected at the beginning of the fiscal year that includes that interim period. Entities should apply this ASU using a retrospective transition method to each period presented. The Company is currently evaluating the impact that *ASU 2016-18* will have on its statement of financial position or financial statement disclosures.

In August 2016, the FASB issued *ASU 2016-15, Statement of Cash Flows (Topic 230) Classification of Certain Cash Receipts and Cash Payments*. This standard amends and adjusts how cash receipts and cash payments are presented and classified in the statement of cash flows. *ASU 2016-15* is effective for fiscal years beginning after December 15, 2017, and interim periods within those fiscal years and will require adoption on a retrospective basis unless impracticable. If impracticable the Company would be required to apply the amendments prospectively as of the earliest date possible. The Company is currently evaluating the impact that *ASU 2016-15* will have on its statement of financial position or financial statement disclosures.

In February 2016, the FASB issued *ASU 2016-02 - Leases,* which establishes a comprehensive new lease accounting model. The new standard clarifies the definition of a lease and causes lessees to recognize leases on the balance sheet as a lease liability with a corresponding right-of-use asset for leases with a lease term of more than one year. *ASU 2016-02* is effective for financial statements issued for fiscal years beginning after December 15, 2018, and interim periods within those fiscal years. Early adoption is permitted. The new standard requires a modified retrospective transition for capital or operating leases existing at or entered into after the beginning of the earliest comparative period presented in the financial statements, but it does not require transition accounting for leases that expire prior to the date of initial application. Upon adoption, the operating leases reporting in Note 9 - Leasing Arrangements, will be reported on the statement of financial position as gross-up assets and liabilities. The Company is currently evaluating the impact that *ASU 2016-02* will have on its statement of financial position or financial statement disclosures.

Revenue Recognition Related ASUs:

In February 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. *2017-05 - Other Income—Gains and Losses from the Derecognition of Nonfinancial Assets (Subtopic 610-20): Clarifying the Scope of Asset Derecognition Guidance and Accounting for Partial Sales of Nonfinancial Assets.* The amendments in this ASU address the recognition of gains and losses on the transfer (i.e., sale) of nonfinancial (and in substance nonfinancial) assets to counterparties other than customers. The ASU conforms the derecognition guidance on nonfinancial assets with the model for transactions in the new revenue standard (ASC 606, as amended). The amendments are effective at the same time as the new revenue standard. For public entities that means annual periods beginning after December 15, 2017 and interim periods therein.

In December 2016, the FASB issued *ASU 2016-20, Technical Corrections and Improvements to Topic 606, Revenue from Contracts with Customers.* The amendments in this ASU affect narrow aspects of the guidance in *ASU 2014-09*, which is not yet effective. The amendments in this ASU address loan guarantee fees, impairment testing of contract costs, provisions for losses on construction-type and production-type contracts, and various disclosures. The effective date and transition requirements for the amendments are the same as the effective date and transition requirements for Topic 606 (and any other Topic amended by *ASU 2014-09*). *ASU 2015-14*, *Revenue from Contracts with Customers (Topic 606): Deferral of the Effective Date*, defers the effective date of *ASU 2014-09* by one year.

In May 2016, the FASB issued *ASU 2016-12 - Narrow-Scope Improvements and Practical Expedients*. This standard amends the guidance in *ASU 2014-09* to specifically provide a practical expedient for reflecting contract modifications at transition. The effective date for *ASU 2016-12* is the same as the effective date for *ASU 2014-09*, *ASU 2015-14*, *ASU*

2016-08 and *ASU 2016-10*.

In April 2016, the FASB issued *ASU 2016-10 - Revenue from Contracts with Customers (Topic 606) — Identifying Performance Obligations and Licensing*. This standard amends the guidance in *ASU 2014-09* and *ASU 2016-08* specifically related to identifying performance obligations and accounting for licenses of intellectual property. The effective date for *ASU 2016-10* is the same as the effective date for *ASU 2014-09*, *ASU 2015-14* and *ASU 2016-08*.

In March 2016, the FASB issued *ASU 2016-08 - Revenue from Contracts with Customers: Principal versus Agent Considerations*. The amendments of this standard are intended to improve the operability and understandability of the implementation guidance on principal versus agent considerations. The effective date for *ASU 2016-08* is the same as the effective date for *ASU 2014-09* and *ASU 2015-14*.

In August 2015, the FASB issued *ASU No. 2015-14 - Revenue from Contracts with Customers (Topic 606) - Deferral of the Effective Date*, which defers the effective date of *ASU 2014-09* for one year and permits early adoption as early as the original effective date of *ASU 2014-09*. The new revenue standard may be applied retrospectively to each prior period presented or retrospectively with the cumulative effect recognized as of the date of adoption.

In May 2014, FASB issued *ASU 2014-09 - Revenue from Contracts with Customers*, which provides guidance for revenue recognition. *ASU 2014-09* affects any entity that either enters into contracts with customers to transfer goods or services or enters into contracts for the transfer of nonfinancial assets and supersedes the revenue recognition requirements in *ASC 605 - Revenue Recognition*, and most industry-specific guidance. This ASU also supersedes some cost guidance included in *ASC 605-35 - Revenue Recognition-Construction-Type and Production-Type Contracts*. The standard's core principle is to recognize revenue when promised goods or services are transferred to customers in an amount that reflects the consideration to which an entity expects to be entitled for those goods or services. The ASU defines a five step process to achieve this core principle and, in doing so, more judgment and estimates may be required within the revenue recognition process than are required under existing U.S. GAAP. These may include identifying performance obligations in the contract, estimating the amount of variable consideration to include in the transaction price and allocating the transaction price to each separate performance obligation. The Company may adopt the new standard under the full retrospective approach or the modified retrospective approach, as permitted under the standard. Early adoption of the standard is not permitted. This ASU and related updates are effective for annual reporting periods beginning after December 15, 2017, including interim reporting periods within that reporting period.

We have completed an initial review of the contracts for our three largest customers to determine the impact that *ASU 2014-09* and its subsequent updates through December 31, 2016 will have on the Company's consolidated financial statements or financial statement disclosures upon adoption. Based on our preliminary review, we believe that the timing and measurement of revenue for these customers will be similar to our current revenue recognition. However, this view is preliminary and could change based on the detailed analysis associated with the conversion and implementation phases of our *ASU 2014-09* project. We will complete our assessment during 2017, and will include other significant wholesale and retail customers as part of the review.

Recently Adopted Accounting Pronouncements

In January 2017, the Financial Accounting Standards Board ("FASB") issued Accounting Standard Update ("ASU") No. *2017-04 - Intangibles—Goodwill and Other (Topic 350): Simplifying the Test for Goodwill Impairment*. This ASU simplifies the subsequent measurement of goodwill, the FASB eliminated Step 2 from the goodwill impairment test. Under the amendments in this ASU, an entity should perform its annual, or interim, goodwill impairment test by comparing the fair value of a reporting unit with its carrying amount. An entity should recognize an impairment charge for the amount by which the carrying amount exceeds the reporting unit's fair value; however, the loss recognized should not exceed the total amount of goodwill allocated to that reporting unit. Additionally, an entity should consider income tax effects from any tax deductible goodwill on the carrying amount of the reporting unit when measuring the goodwill impairment loss, if applicable. The FASB also eliminated the requirements for any reporting unit with a zero or negative carrying amount to perform a qualitative assessment and, if it fails that qualitative test, to perform Step 2 of the goodwill impairment test. Therefore, the same impairment assessment applies to all reporting units. An entity is required to disclose the amount of goodwill allocated to each reporting unit with a zero or negative carrying amount of net assets. An entity still has the option to perform the qualitative assessment for a reporting unit to determine if the quantitative impairment test is necessary. A public business entity that is an SEC filer should adopt the amendments in this Update for its annual or any interim goodwill impairment tests in fiscal years beginning after December 15, 2019. Early adoption is permitted for interim or annual goodwill impairment tests performed on testing dates after January 1, 2017. *ASU 2017-04* was early adopted by the Company for the year beginning January 1, 2017 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In January 2017, the FASB issued *ASU 2017-01 - Business Combinations (Topic 805): Clarifying the Definition of a Business.* This standard changes the definition of a business to assist entities with evaluating when a set of transferred assets and activities is a business. The amendments in this ASU provide a screen to determine when a set is not a business. The screen requires that when substantially all of the fair value of the gross assets acquired (or disposed of) is concentrated in a single identifiable asset or a group of similar identifiable assets, the set is not a business. This screen reduces the number of transactions that need to be further evaluated. If the screen is not met, the amendments in this ASU (1) require that to be considered a business, a set must include, at a minimum, an input and a substantive process that together significantly contribute to the ability to create output and (2) remove the evaluation of whether a market participant could replace missing elements. The amendments provide a framework to assist entities in evaluating whether both an input and a substantive process are present. The framework includes two sets of criteria to consider that depend on whether a set has outputs. Although outputs are not required for a set to be a business, outputs generally are a key element of a business; therefore, the FASB has developed more stringent criteria for sets without outputs. Lastly, the amendments in this Update narrow the definition of the term output so that the term is consistent with how outputs are described in Topic 606. The ASU is effective for public business entities for annual periods beginning after December 15, 2017, including interim periods within those periods. The amendments in this Update should be applied prospectively on or after the effective date. No disclosures are required at transition. Early application of the amendments in this Update is allowed as follows: (1) for transactions for which the acquisition date occurs before the issuance date or effective date of the amendments, only when the transaction has not been reported in financial statements that have been issued or made available for issuance and (2) for transactions in which a subsidiary is deconsolidated or a group of assets is derecognized that occur before the issuance date or effective date of the amendments, only when the transaction has not been reported in financial statements that have been issued or made available for issuance. *ASU 2017-01* was early adopted by the Company for the year beginning January 1, 2017 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In July 2015, the FASB issued *ASU 2015-11 - Inventory. ASU 2015-11 simplifies the measurement of inventory by requiring inventory to be measured at the lower of cost and net realizable value*. *ASU 2015-11* is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. *ASU 2015-11* was adopted by the Company for the year beginning January 1, 2017 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In August 2014, the FASB issued *ASU 2014-15 - Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern*, to provide guidance on management's responsibility in evaluating whether there is substantial doubt about a company's ability to continue as a going concern and to provide related footnote disclosures. *ASU 2014-15* is effective for financial statements issued for fiscal years ending after December 15, 2016, and interim periods thereafter. *ASU 2014-15 - Disclosure of Uncertainties about an Entity's Ability to Continue as a Going Concern* was adopted by the Company for the year ending December 31, 2016. In connection with the preparation of the financial statements for the three month period ended March 31, 2017, the Company conducted an evaluation as to whether there were conditions and events, considered in the aggregate, which raised substantial doubt as to the entity's ability to continue as a going concern within one year after the date of the issuance, or the date of availability, of the financial statements to be issued, noting that there did not appear to be evidence of substantial doubt of the entity's ability to continue as a going concern.

In March 2016, the FASB issued *ASU 2016-09 - Compensation - Stock Compensation*, which simplifies the accounting for the tax effects related to stock based compensation, including adjustments to how excess tax benefits and a company's payments for tax withholdings should be classified, amongst other items. *ASU 2016-09* is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years with early adoption permitted. *ASU 2016-09* was early adopted by the Company for the year beginning January 1, 2016 and resulted in various effects, most notably a reduction in income tax expense of $11.4 million due to stock option exercises in the year ended December 31, 2016.

In November 2015, the FASB issued *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* to simplify the presentation of deferred income taxes. *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* requires that deferred tax liabilities and assets be classified as noncurrent in a classified statement of financial position. *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* is effective for financial statements issued for fiscal years beginning after December 15, 2016, and interim periods within those fiscal years. *ASU 2015-17 - Balance Sheet Classification of Deferred Taxes* was early adopted by the Company for the year beginning January 1, 2016 resulting in the reclassification of the current portion of deferred tax assets to non-current deferred tax assets for the years ended December 31, 2016 and 2015.

In September 2015, the FASB issued *ASU 2015-16 - Business Combinations*. *ASU 2015-16 - Business Combinations* simplifies the accounting for measurement-period adjustments by requiring adjustments to provisional amounts in a business combination to be recognized in the reporting period in which the adjustment amounts are determined and eliminates the requirement to retrospectively account for those adjustments. *ASU 2015-16 - Business Combinations* requires an entity to present separately on the face of the income statement or disclose in the notes the amount recorded in current-period earnings that would have been recorded in previous reporting periods if the adjustment to the provisional amounts had been recognized as of the acquisition date. *ASU 2015-16 - Business Combinations* was adopted by the Company for the year beginning January 1, 2016 and did not have a material impact on the Company's condensed consolidated financial statements or financial statement disclosures.

In April 2015, the FASB issued *ASU 2015-03 - Interest - Imputation of Interest*, which simplifies the presentation of debt issuance costs by requiring that debt issuance costs be presented in the balance sheet as a direct deduction from the carrying amount of debt liability, consistent with debt discounts or premiums. *ASU 2015-03* is effective for financial statements issued for fiscal years beginning after December 15, 2015, and interim periods within those fiscal years. *ASU 2015-03* was adopted by the Company for the year beginning January 1, 2016 resulting in the reclassification of the deferred financing fees to the respective face value of debt outstanding for the year ended December 31, 2016.

Note 17 – Subsequent Events

Merger Agreement

On April 24, 2017, the Company entered into an Agreement and Plan of Merger (the “Merger Agreement”) with Fresenius Kabi AG, a German stock corporation (“Parent”), Quercus Acquisition, Inc., a Louisiana corporation and a wholly owned subsidiary of Parent (“Merger Sub”) and, solely for purposes of Article VIII thereof, Fresenius SE & Co. KGaA, a German partnership limited by shares. The Merger Agreement, which has been adopted by the Board of Directors of the Company, provides for the merger of Merger Sub with and into the Company (the “Merger”), with the Company surviving the Merger as a wholly owned subsidiary of Parent.

Subject to the terms and conditions set forth in the Merger Agreement, at the effective time of the Merger (the “Effective Time”), each of the Company’s issued and outstanding shares of common stock, no par value per share (the “Shares”) (other than Shares owned by the Company or by Parent, Merger Sub or any direct or indirect wholly owned subsidiary of the Company or of Parent (other than Merger Sub) immediately prior to the Effective Time), will be converted into the right to receive $34.00 in cash per Share (the “Merger Consideration”), without interest.

Completion of the Merger is subject to customary closing conditions, including (1) the approval of the Merger Agreement by the affirmative vote of the holders of at least a majority of all outstanding Shares (the “Shareholder Approval”), (2) there being no judgment or law enjoining or otherwise prohibiting the consummation of the Merger and (3) the expiration of the waiting period applicable to the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. The obligation of each of the Company and Parent to consummate the Merger is also conditioned on the other party’s representations and warranties being true and correct (subject to certain materiality exceptions) and the other party having performed in all material respects its obligations under the Merger Agreement.

The Merger Agreement contains representations and warranties and covenants of the parties customary for a transaction of this nature. Among other things, Parent has agreed to promptly take all actions necessary to obtain antitrust approval of the Merger, including (i) entering into consent decrees or undertakings with a regulatory authority, (ii) divesting or holding separate any assets or businesses of Parent or the Company, (iii) terminating existing contractual relationships or entering into new contractual relationships, (iv) effecting any other change or restructuring of Parent or the Company and (v) defending through litigation any claim asserted by a regulatory authority that would prevent the closing of the Merger.

Until the earlier of the termination of the Merger Agreement and the Effective Time, the Company has agreed to operate its business in the ordinary course of business in all material respects and has agreed to certain other operating covenants and to not take certain specified actions prior to the consummation of the Merger, as set forth more fully in the Merger Agreement. The Company has also agreed to convene and hold a meeting of its shareholders for the purpose of obtaining the Shareholder Approval. In addition, the Merger Agreement requires that, subject to certain exceptions, the Board recommend that the Company’s shareholders approve the Merger Agreement.

Shareholder Derivative and Class Action Complaint in Connection with the Merger

On May 2, 2017 a shareholder derivative and class action complaint for breach of fiduciary duties in connection with the Merger was filed entitled *Robert J. Shannon, Jr., et. al. v. Fresenius Kabi AG et. al. No. 2017-CH-06322* in the Circuit Court of Cook County, Illinois, Chancery Division. The complaint seeks injunctive relief. Defendants intend to vigorously defend this case.

Item 2. Management's Discussion and Analysis of Financial Condition and Results of Operations.

FORWARD-LOOKING STATEMENTS AND FACTORS AFFECTING FUTURE RESULTS

Certain statements in this Form 10-Q are forward-looking in nature and are intended to be "forward-looking statements" within the meaning of the Private Securities Litigation Reform Act of 1995. These statements relate to future events or future financial performance. In some cases, you can identify forward-looking statements by terminology such as "may," "should," "will," "could," "expects," "plans," "intends," "anticipates," "believes," "estimates," "predicts," "potential" or "continue" or the negative of such terms or other comparable terminology. Any forward-looking statements, including statements regarding our intent, beliefs or expectations are not guarantees of future performance. These statements are subject to risks and uncertainties and actual results, levels of activity, performance or achievements may differ materially from those in the forward-looking statements as a result of various factors. See "Risk Factors" in our Annual Report on Form 10-K for the fiscal year ended December 31, 2016, as filed with the SEC on March 1, 2017 and in this Form 10-Q, which include, but are not limited to, the following items:

- Our growth depends on our ability to timely and efficiently develop and successfully launch and market new pharmaceutical products
- We could experience business interruptions at our manufacturing facilities
- We may be subject to significant disruptions or failures in our information technology systems and network infrastructures
- Our inability to effectively manage or support our growth
- The loss or failure of third party manufacturers as a significant portion of our revenues are generated through the sale of these products
- The loss or failure of any of the small number of wholesalers we use to distribute our products
- We depend on our employees and must continue to attract and retain key personnel in order to compete successfully, and any failure to do so could hinder successful execution of our business and development plans
- We have entered into several strategic business alliances that may not result in marketable products
- Failure to obtain regulatory certification of our manufacturing facility in India for production of pharmaceutical products for export to the United States, as well as other regulated world markets
- We may not achieve the anticipated benefits from our acquisitions and we may face integration difficulties
- We become involved in legal proceedings from time to time
- We may incur charges to earnings resulting from acquisitions
- The Chairman of our Board of Directors, through his stock ownership and his right to nominate up to two other directors, could have an adverse effect on the market value of our stock and have substantial influence over our business strategies and policies
- The loss of single-sourced raw materials and components used in our products
- Sales of our products may be adversely affected by the continuing consolidation of our customer base
- Changes in technology could render our products obsolete

- Our branded products may become subject to increased generic competition

- We are subject to extensive government regulations which if they change and or we are not in compliance with, could increase our costs, subject us to various obligations and fines, or prevent us from selling our products or operating our facilities

- Changes in healthcare law and policy changes may adversely affect our business plans and results of operations

- The FDA may require us to stop marketing certain unapproved drugs

- Any failure to comply with the complex reporting and payment obligations under Medicare, Medicaid and other government programs may result in litigation or sanctions

- Failure to comply with the U.S. Foreign Corrupt Practices Act could subject us to, among other things, penalties and legal expenses that could harm our reputation and have a material adverse effect on our business, financial condition and operating results

- The FDA may authorize sales of some prescription pharmaceuticals on a non-prescription basis, which may reduce the profitability of our prescription products

- Third parties may claim that we infringe their proprietary rights and may prevent or delay us from manufacturing and selling some of our new products

- Our patents and proprietary rights may be challenged, circumvented or otherwise compromised by competitors, which may result in our protected products losing their market exclusivity and becoming subject to generic competition before their patents expire

- We have identified a material weakness in our internal control over financial reporting. If our remedial measures are insufficient to address the material weakness, or if we otherwise fail to establish and maintain an effective system of internal control over financial reporting, we may not be able to accurately report our financial results, timely file our periodic reports, maintain our reporting status or prevent fraud

- The restatement of our previously issued 2014 financial statements and the previous delay in our filing of 2015 financial statements has resulted in various governmental investigations and shareholder lawsuits and could result in government enforcement actions, which could have a material adverse impact on our results of operations, financial condition, liquidity, and cash flows

- We may need to obtain additional capital to continue to grow our business

- We may not generate cash flow sufficient to pay interest and make required principal repayments on our Term Loans

- Our indebtedness reduces our financial and operating flexibility

- Exercise of options and granting of restricted stock units, may have a substantial dilutive effect on our common stock

- Our announced stock repurchase program could affect the price of our common stock and increase volatility and may be suspended or terminated at any time, which may result in a decrease in the trading price of our common stock

- We may issue preferred stock and the terms of such preferred stock may reduce the market value of our common stock

If any of these risks or uncertainties materialize, or if our underlying assumptions prove to be incorrect, actual results may vary significantly from what we projected. As a result, you should not place undue reliance on any forward-looking statements. Any forward-looking statement you read in the following Management's Discussion and Analysis of Financial Condition and Results of Operations reflects our current views with respect to future events and is subject to these and other risks, uncertainties, and assumptions relating to our operations, results of operations, growth strategy, and liquidity. Unless required by law, we undertake no obligation to publicly update any forward-looking statements for any reason, whether as a result of new information, future events, or otherwise.

RESULTS OF OPERATIONS

The following table sets forth the amounts and percentages of total revenue for certain items from our Condensed Consolidated Statements of Comprehensive Income and our segment reporting information for the three months ended March 31, 2017 and 2016 (dollar amounts in thousands):

	Three Months Ended March 31,			
	2017		2016	
	Amount	% of Revenue	Amount	% of Revenue
Revenues, net:				
Prescription Pharmaceuticals	$ 237,379	93.7 %	$ 250,749	93.4 %
Consumer Health	16,041	6.3 %	17,598	6.6 %
Total revenues, net	253,420	100.0 %	268,347	100.0 %
Gross profit:				
Prescription Pharmaceuticals	141,319	59.5 %	154,635	61.7 %
Consumer Health	7,813	48.7 %	8,382	47.6 %
Total gross profit	149,132	58.8 %	163,017	60.7 %
Operating expenses:				
SG&A expenses	47,526	18.8 %	49,086	18.3 %
Acquisition-related costs	11	— %	197	0.1 %
R&D expenses	11,291	4.5 %	9,479	3.5 %
Amortization of intangible assets	15,471	6.1 %	16,518	6.2 %
Impairment of intangible assets	—	— %	158	0.1 %
Operating income	$ 74,833	29.5 %	$ 87,579	32.6 %
Other expense, net	(9,507)	(3.8)%	(21,007)	(7.8)%
Income before income taxes	65,326	25.8 %	66,572	24.8 %
Income tax provision	24,299	9.6 %	24,686	9.2 %
Net income	$ 41,027	16.2 %	$ 41,886	15.6 %

THREE MONTHS ENDED MARCH 31, 2017 COMPARED TO THREE MONTHS ENDED MARCH 31, 2016

Net revenue was $253.4 million for the three month period ended March 31, 2017, representing a decrease of $14.9 million, or 5.6%, as compared to net revenue of $268.3 million for the three month period ended March 31, 2016. The decrease in net revenue in the period was primarily due to a $19.1 million decline in organic revenue that was slightly offset by $5.4 million of growth from new and re-launched products. The $19.1 million decline in organic revenue was due to approximately $10.8 million and $8.3 million in price erosion and volume declines, respectively that were principally due to increased industry pricing pressures and the competitive nature of our business.

The Prescription Pharmaceuticals segment revenues of $237.4 million for the three month period ended March 31, 2017 represented a decrease of $13.4 million, or 5.3%, as compared to revenue of $250.7 million for three month period ended March 31, 2016.

The Consumer Health segment revenues of $16.0 million for the three month period ended March 31, 2017 represented a decrease of $1.6 million, or 8.8%, as compared to revenue of $17.6 million for three month period ended March 31, 2016.

The net revenues for the three month period ended March 31, 2017 of $253.4 million were net of adjustments totaling $427.1 million for chargebacks, rebates, administrative fees and others, product returns, discounts and allowances and advertising, promotions and other. Chargeback expenses for the three month period ended March 31, 2017 were $280.2 million, or 41.2% of gross sales, compared to $219.4 million, or 37.0% of gross sales for three month period ended March 31, 2016. The $60.8 million increase in chargeback expense was due to the impact of product and customer mix. Rebates, administrative fees and other expenses for the three month period ended March 31, 2017 were $124.4 million, or 18.3% of gross sales, compared to $88.3 million, or 14.9% for three month period ended March 31, 2016. The $36.0 million increase in rebates, administrative fees and other expenses was due to the impact of product and customer mix. Our product returns provision for the three month period ended March 31, 2017 was $8.4 million, or 1.2% of gross sales, compared to $4.3 million, or 0.7% of gross sales for the three month period ended March 31, 2016. Discounts and allowances were $12.9 million or 1.9% of gross sales for the three month period ended March 31, 2017, compared to $12.0 million, or 2.0% of gross sales for the three month period ended March 31, 2016. Advertisement and promotion expenses were $1.2 million or 0.2% of gross sales for the three month period ended March 31, 2017, compared to $1.1 million, or 0.2% of gross sales for the three month period ended March 31, 2016.

Consolidated gross profit for the quarter ended March 31, 2017 was $149.1 million, or 58.8% of net revenue, compared to $163.0 million, or 60.7% of net revenue, in the corresponding prior year quarter. The decline in the gross profit percentage is principally due to price declines within the generic product portfolio, unfavorable product mix shifts, and costs associated with price changes.

Total operating expenses were $74.3 million in the three month period ended March 31, 2017, a decrease of $1.1 million, or 1.5%, from the prior year quarter, which was primarily driven by respective reductions of $1.6 million and $1.0 million in selling, general and administrative ("SG&A") expenses and amortization of intangibles, offset by a $1.8 million increase in R&D expenses.

In the three month period ended March 31, 2017, the Company incurred non-operating expenses totaling $9.5 million compared to $21.0 million in the prior year quarter. This decrease of $11.5 million was driven by $5.0 million decrease in amortization of deferred financing costs, $2.0 million decrease in interest expense from the Term loans and convertible notes resulting from the $200.0 million partial term loan repayment made during the first quarter of 2016 and the conversion of outstanding convertible notes during the second quarter of 2016, and $4.5 million change in other non-operating income (expenses) for the two periods compared. As a percentage of net revenues, non-operating expenses decreased to 3.8% in the three month period ended March 31, 2017 compared to 7.8% in the prior year quarter.

For the three month period ended March 31, 2017, we recorded an income tax provision of $24.3 million on our income before income tax of $65.3 million or an effective tax provision rate of 37.2%. In the prior year quarter ended March 31, 2016, our income tax provision was $24.7 million based on an effective tax provision rate of 37.1%. The income tax provision rate in the current year was increased in comparison to the prior year due to losses at the Company’s Indian and Swiss subsidiaries.

We reported net income of $41.0 million for the three month period ended March 31, 2017, or 16.2% of net revenues, compared to net income of $41.9 million for the three month period ended March 31, 2016, or 15.6% of net revenues.

FINANCIAL CONDITION AND LIQUIDITY

As of March 31, 2017, we had cash and cash equivalents of $307.4 million, which were $106.6 million more than our cash and cash equivalents balance of $200.8 million as of December 31, 2016. This increase in cash and cash equivalents was driven by operating cash inflows of $127.5 million and financing cash inflows of $1.1 million, partially offset by investing cash outflows of $22.3 million. Our net working capital was $561.1 million at March 31, 2017, compared to $510.3 million at December 31, 2016, an increase of $50.8 million.

Operating Cash Flows

(amounts in thousands)	Three Months Ended March 31,	
	2017	**2016**
OPERATING ACTIVITIES:		
Consolidated net income	$ 41,027	$ 41,886
Adjustments to reconcile consolidated net income to net cash provided by operating activities:		
Depreciation and amortization	20,914	22,468
Amortization of debt financing costs	1,304	6,311
Impairment of intangible assets	225	158
Non-cash stock compensation expense	4,709	2,921
Non-cash interest expense	—	454
Deferred income taxes, net	(1,174)	(8,009)
Other	31	—
Changes in operating assets and liabilities:		
Trade accounts receivable	49,563	(21,355)
Inventories, net	2,708	(5,928)
Prepaid expenses and other current assets	4,137	(1,190)
Trade accounts payable	(4,286)	(1,948)
Accrued expenses and other liabilities	8,296	(26,783)
NET CASH PROVIDED BY OPERATING ACTIVITIES	$ 127,454	$ 8,985

During the three month period ended March 31, 2017, operating activities generated $127.5 million in cash flows. This positive cash flow was principally the result of a decrease of $49.6 million in accounts receivable, our consolidated net income of $41.0 million, a net inflow from non-cash expenses of $26.0 million and an increase of $8.3 million in accrued expenses.

During the three month period ended March 31, 2016, operating activities generated $9.0 million in cash flows. This positive cash flow was principally the result of our consolidated net income of $41.9 million and a $24.3 million net inflow of non-cash expenses. This increase was partially offset by $26.8 million decrease in accrued expenses and other liabilities and $21.4 million increase in trade accounts receivable.

Investing Cash Flows

(amounts in thousands)	Three Months Ended March 31,	
	2017	**2016**
INVESTING ACTIVITIES:		
Proceeds from disposal of assets	$ 152	$ —
Payments for intangible assets	—	(1,000)
Purchases of property, plant and equipment	(22,483)	(9,918)
NET CASH USED IN INVESTING ACTIVITIES	$ (22,331)	$ (10,918)

We used $22.3 million in investing activities during the three month period ended March 31, 2017, consisting of $22.5 million used to acquire fixed assets, partially offset by $0.2 million received in proceeds related to the disposition of assets.

We used $10.9 million in investing activities during the three month period ended March 31, 2016, consisting of $9.9 million used to acquire fixed assets and $1.0 million for the payment of intangible assets.

Financing Cash Flows

(amounts in thousands)	Three Months Ended March 31,	
	2017	**2016**
FINANCING ACTIVITIES:		
Proceeds from the exercise of stock options	$ 1,115	$ —
Debt financing costs	—	(3,571)
Debt payments	—	(200,000)
NET CASH PROVIDED BY(USED IN) FINANCING ACTIVITIES	$ 1,115	$ (203,571)

Financing activities generated $1.1 million in the three month period ended March 31, 2017, from employee stock option exercise proceeds.

Financing activities used $203.6 million in the three month period ended March 31, 2016, consisting of $200.0 million principal repayment on its debt and $3.6 million from the payment of debt financing costs incurred due to the consent waivers obtained in the period.

Liquidity and Capital Needs

We require certain capital resources in order to maintain and expand our business. Our future capital expenditures may include substantial projects undertaken to upgrade, expand and improve our manufacturing facilities, in the U.S., India and Switzerland. Most notably we have previously, and continue to expend significant amounts in order to gain compliance with FDA requirements at AIPL. Furthermore, the Company expects to expend significant amounts in order to comply with the Drug Supply Chain Security Act ("DSCSA") by the implementation date in November 2017 and also intends to increase research and development spend through greater headcount. Our cash obligations include the principal and interest payments due on our Term Loans and any amount we may borrow under the JPMorgan Facility (as both described throughout this report) and the amount required to effect the repurchase of shares of our common stock in accordance with the Stock Repurchase Program discussed in Item 1, Note 11 - "*Share Repurchases*." As of March 31, 2017, the Company had $155.0 million remaining under the repurchase authorization. We believe that our cash reserves, operating cash flows, and availability under our credit facilities will be sufficient to finance any future expansions and meet our cash needs for the foreseeable future.

Refer to Item 1, Note 8 - "*Financing Arrangements*" for further detail of debt obligations as of and for the quarter ended March 31, 2017.

CRITICAL ACCOUNTING POLICIES

The preparation of financial statements in accordance with generally accepted accounting principles requires management to make estimates and judgments that affect the reported amounts of assets, liabilities, revenues and expenses. A summary of our significant accounting policies is included in Part II - Item 8, Note 2 - "*Summary of Significant Accounting Policies*", in our Annual Report on Form 10-K for the year ended December 31, 2016 and in Item 1, Note 2 - "*Summary of Significant Accounting Policies*" of this Form 10-Q. Certain of our accounting policies are considered critical, as these policies require significant, difficult or complex judgments by management, often requiring the use of estimates about the effects of matters that are inherently uncertain.

The Company consolidates the financial statements of its foreign subsidiaries in accordance with *ASC 830 - Foreign Currency Matters*, under which the statement of operations amounts are translated from Indian rupees (“INR”) and Swiss Francs (“CHF”), respectively, to U.S. Dollars at the average exchange rate during the applicable period, while balance sheet amounts are generally translated at the exchange rate in effect as of the applicable balance sheet date. Cash flows are translated at the average exchange rate in place during the applicable period. Differences arising from foreign currency translation are included in accumulated other comprehensive loss and are carried as a separate component of equity on our condensed consolidated balance sheets.

OFF-BALANCE SHEET ARRANGEMENTS

We do not have any off-balance sheet arrangements that have had, or are reasonably likely to have, a current or future material effect on our financial condition, changes in financial condition, revenues or expenses, results of operations, liquidity, capital expenditures, or capital resources.

Item 3. Quantitative and Qualitative Disclosures About Market Risk.

There has been no material change in the information reported under Part II, Item 7A - "*Quantitative and Qualitative Disclosures About Market Risk*" in our Form 10-K for the fiscal year ended December 31, 2016.

Item 4. Controls and Procedures.

Evaluation of Disclosure Controls and Procedures

Our management evaluated, with the participation of our Chief Executive Officer and Chief Financial Officer, the effectiveness of our disclosure controls and procedures, as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, for the three month period ended March 31, 2017.

Based on this evaluation, our Chief Executive Officer and Chief Financial Officer have concluded that, because of the material weakness in internal control over financial reporting described in our 2016 Form 10-K as filed on March 1, 2017, our disclosure controls and procedures were not effective as of March 31, 2017.

A material weakness is a deficiency, or a combination of deficiencies, in internal control over financial reporting, such that there is a reasonable possibility that a material misstatement of our annual or interim financial statements will not be prevented or detected on a timely basis. Because of its inherent limitations, internal control over financial reporting may not prevent or detect misstatements. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the policies or procedures may deteriorate.

In prior filings, we identified and reported a material weakness in the Company's internal control over financial reporting related to our internal controls over the accounting for indefinite-lived IPR&D-related intangible assets, which still exists as of March 31, 2017. We are executing our remediation plan and testing procedures. In response to the identified material weakness, our management, with oversight from our audit committee, has dedicated resources to improve our control environment and to remedy the identified material weakness.

We believe that we have designed and implemented the appropriate controls to fully remediate the material weakness. These controls include additional procedures related to the review of assumptions and data inputs, as well as the review of the results and documentation of the IPR&D indefinite-lived intangible assets impairment analysis. However, the Company is required to demonstrate the effectiveness of the new processes for a sufficient period of time. Therefore, until all remedial actions as described fully in our 2016 Form 10-K, as filed on March 1, 2017, including the efforts to test the necessary control activities we identified, are fully completed, the material weakness identified will continue to exist.

During the three month period ended March 31, 2017, the Company commenced testing of the redesigned controls directly related to the identified material weakness. We are committed to achieving and maintaining a strong control environment, high ethical standards, and financial reporting integrity and transparency.

Changes in Internal Control Over Financial Reporting

As described above, we have designed and implemented additional controls in connection with our remediation plan. Other than these additional controls, there were no changes in our internal control over financial reporting (as defined in Rules 13a-15(e) and 15d-15(e) under the Securities Exchange Act of 1934, for the three month period ended March 31, 2017 that has materially affected, or is reasonably likely to materially affect the Company's internal control over financial reporting.

PART II. OTHER INFORMATION

Item 1. Legal Proceedings.

The Company's disclosure of legal proceedings within Part I - Item 1, Note 12 - "*Commitments and Contingencies*" of this Report, is incorporated into this Part II - Item 1 by reference.

Item 1A. Risk Factors.

Other than the risk factors described below, there have been no material changes to the risk factors disclosed in Part 1 - Item 1A, of our Form 10-K for the year ended December 31, 2016.

There are material uncertainties and risks associated with the proposed Merger Agreement and Merger.

On April 24, 2017, we signed the Merger Agreement with Fresenius Kabi. Below are material uncertainties and risks associated with the Merger Agreement and the proposed Merger. If any of the risks develop into actual events, then our business, financial condition, results and ongoing operations, stock price or prospects could be materially adversely affected.

- The announcement or pendency of the Merger may impede Akorn's ability to retain and hire key personnel, its ability to maintain relationships with its customers, suppliers and others with whom it does business, or its operating results and business generally;
- The attention of our employees and management may be diverted due to activities related to the Merger, which may affect our business operations;
- Matters relating to the transactions (including integration planning) may require substantial commitments of time and resources by Akorn management, which could harm our relationships with our employees, customers, distributors, suppliers or other business partners, and may result in a loss of or a substantial decrease in purchases by our customers;
- The Merger Agreement restricts us from engaging in certain actions without the approval of Fresenius Kabi, which could prevent us from pursuing certain business opportunities outside the ordinary course of business that arise prior to the closing of the Merger;
- The Merger Agreement contains provisions that could discourage a potential competing acquirer of Akorn;
- The directors and executive officers of Akorn have interests in the Merger that may be different from, or in addition to, those of other Akorn shareholders, which could have influenced their decisions to support or approve the Merger; and
- Shareholder litigation in connection with the transactions contemplated by the Merger Agreement may result in significant costs of defense, indemnification and liability.

The proposed Merger may not be completed in a timely manner or at all.

Completion of the Merger is subject to customary closing conditions, including (1) the approval of the Merger Agreement by the affirmative vote of the holders of at least a majority of all outstanding shares, (2) there being no judgment or law enjoining or otherwise prohibiting the consummation of the Merger, (3) the expiration of the waiting period applicable to the Merger under the Hart-Scott-Rodino Antitrust Improvements Act of 1976, as amended. The obligation of each of the Company and Fresenius Kabi to consummate the Merger is also conditioned on the other party's representations and warranties being true and correct (subject to certain materiality exceptions) and the other party having performed in all material respects its obligations under the Merger Agreement. There is no assurance that the required stockholder and regulatory approvals will be obtained, nor that the required closing conditions will be satisfied, and no assurance can be given as to the terms, conditions and timing of any approvals. Competing offers or acquisition proposals for Akorn may be made, resulting in delay of the Merger or termination of the Merger Agreement. Lawsuits have been filed and threatened against Akorn relating to the Merger and an adverse ruling in any such lawsuit may prevent the Merger from being completed in the time frame expected or at all. If the Merger is delayed or not completed, we may suffer a number of consequences, including a decline in our share price to the extent that the current price of our common stock reflects an assumption that the merger will be completed; negative publicity and a negative impression of us in the investment community and loss of business opportunities. Further, we have incurred, and will continue to incur, significant costs, expenses and fees for professional advisors, printing and other transaction costs in connection with the Merger, and these fees and costs are payable by us regardless of whether the Merger is consummated. In some cases, a termination of the Merger Agreement will require Akorn to pay Fresenius Kabi a termination fee and additional expenses. In addition, Akorn could be subject to litigation related to any failure to consummate the Merger or any related action that could be brought to enforce a party's obligation under the Merger Agreement.

Item 2. Unregistered Sales of Equity Securities and Use of Proceeds.

None.

Item 3. Defaults Upon Senior Securities.

None.

Item 4. Mine Safety Disclosures.

Not applicable.

Item 5. Other Information.

None.

Item 6. Exhibits.

The list of exhibits in the Exhibit Index to this Report is incorporated herein by reference.

SIGNATURES

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

AKORN, INC.

/s/ DUANE A. PORTWOOD

Duane A. Portwood

Chief Financial Officer

(on behalf of the registrant and as its
Principal Financial Officer)

Date: May 4, 2017

EXHIBIT INDEX

Those exhibits marked with a (*) refer to exhibits filed herewith. The other exhibits are incorporated herein by reference, as indicated in the following list. Those exhibits marked with a (†) refer to management contracts or compensatory plans or arrangements. Portions of the exhibits marked with a (Ω) are the subject of a Confidential Treatment Request under 17 C.F.R. §§ 200.80(b)(4), 200.83 and 240.24b-2. Omitted material for which confidential treatment has been requested has been filed separately with the SEC.

Exhibit No.	Description
2.1	Agreement and Plan of Merger By and Among Fresenius Kabi AG, Quercus Acquisition, Inc., Akorn, Inc. and Fresenius SE & Co. KGAA dated as of April 24, 2017, incorporated by reference to Exhibit 2.1 to the report on Form 8-K filed by Akorn, Inc. on April 24, 2017.
3.1 *	By-Laws of Akorn, Inc., as amended on April 24, 2017.
10.1†	Akorn, Inc. 2017 Omnibus Incentive Compensation Plan, incorporated by reference to Appendix A to the Definitive Proxy Statement on Schedule 14A filed by Akorn, Inc. on March 20, 2017.
10.2 * †	Akorn, Inc. 2017 Omnibus Incentive Compensation Plan - Form of Restricted Stock Unit Award Agreement
10.3 * †	Akorn, Inc. 2017 Omnibus Incentive Compensation Plan - Form of Restricted Stock Unit Award (non-employee director)
31.1 *	Certification of Chief Executive Officer pursuant to Rule 13a-14(a).
31.2 *	Certification of Chief Financial Officer pursuant to Rule 13a-14(a).
32.1 *	Certification of Chief Executive Officer pursuant to 18 U.S.C. § 1350.
32.2 *	Certification of Chief Financial Officer pursuant to 18 U.S.C. § 1350.
101 *	The financial statements and footnotes from the Akorn, Inc. Quarterly Report on Form 10-Q for the three month period ended March 31, 2017, filed on May 4, 2017, formatted in XBRL: (i) Condensed Consolidated Balance Sheets, (ii) Condensed Consolidated Statements of Comprehensive Income, (iii) Condensed Consolidated Statement of Shareholders' Equity, (iv) Condensed Consolidated Statements of Cash Flows, and (v) Notes to Condensed Consolidated Financial Statements.

Exhibit 3.1

BY-LAWS
of
AKORN, INC.

ARTICLE I
SHAREHOLDERS

Section 1 — Place of Holding Meeting. All meetings of the shareholders shall be held at the principal business office of the corporation in Metairie, Louisiana, or at such other place as may be specified in the notice of the meeting.

Section 2 — Annual Meeting of Shareholders. The annual meeting of shareholders for the election of directors, and the transaction of other business, shall be held at least once in each calendar year, on a date fixed by the Board of Directors.

Section 3 — Voting.

(a) On demand of any shareholder, the vote for directors, or on any question before a meeting, shall be by ballot. All elections of directors shall be had by plurality, and all other questions decided by majority, of the votes cast, except as otherwise provided by the articles or by-laws.

(b) At each meeting of shareholders, a list of the shareholders entitled to vote, arranged alphabetically and certified by the secretary (or the transfer agent, if one has been appointed) showing the number and class of shares held by each such shareholder on the record date for the meeting, shall be produced on the request of any shareholder.

Section 4 — Quorum. Except as provided in the next section hereof, any number of shareholders, together holding at least a majority of the outstanding shares entitled to vote thereat, who are present in person or represented by proxy at any meeting, constitute a quorum for the transaction of business despite the subsequent withdrawal or refusal to vote of any shareholder.

Section 5 — Adjournment of Meeting. If less than a quorum is in attendance at any time for which a meeting is called, the meeting may, after the lapse of at least half an hour, be adjourned by a majority in interest of the shareholders present or represented and entitled to vote thereat. If notice of such adjourned meeting is sent to the shareholders entitled to vote at the meeting, stating the purpose or purposes of the meeting and that the previous meeting failed for lack of a quorum, then any number of shareholders, present in person or represented by proxy, and together holding no less than 33⅓% of the outstanding shares entitled to vote thereat, constitute a quorum at the adjourned meeting.

Section 6 — Special Meetings: How Called. Special meetings of the shareholders for any purpose or purposes may be called by the president or secretary upon a written request therefor, stating the purpose or purposes thereof, delivered to the president or secretary and signed either by a majority of the directors or by one-fifth in interest of the shareholders entitled to vote.

Section 7 — Notice of Shareholders' Meetings. Written or printed notice, stating the place and time of any meeting, and, if a special meeting, the general nature of the business to be considered, shall be given to each shareholder entitled to vote thereat, at his last known address, at least ten days before the meeting in the case of an annual meeting, and fifteen days before the meeting in the case of a special meeting. Any irregularity in the notice of an annual meeting held at the corporation's principal business office at the time prescribed in Section 2 of this Article I, shall not affect the validity of the meeting or any action taken thereat.

Section 8 — Waiver. Any requirements of this Article as to meetings of shareholders and notices thereof may be waived, and shall be deemed to have been waived when all shareholders shall have signed a consent to the action taken, or to be taken, at the meeting. (See Article VII, Section 5.)

ARTICLE II
DIRECTORS

Section 1 — Number of Directors. The size of the Board shall be not more than 20, with the exact number of directors to be determined from time to time by the Board. No decrease in the number of authorized directors shall shorten the term of any incumbent director. Unless otherwise required by law or the articles, vacancies arising through death, resignation, removal, an increase in the number of directors or otherwise may be filled only by a majority of the directors then in office, though less than a quorum, or by a sole remaining director, and the directors so chosen shall hold office for a term expiring at the next annual meeting of shareholders and until their successors are duly elected and qualified, or until their earlier death, resignation, removal or departure from the Board for other cause; provided that the shareholders shall have the right to fill any such vacancies prior to any action by the Board, at a special meeting called for such purpose.

Section 2 — Place of Holding Meetings. Meetings of the directors, regular or special, may be held at any place, within or outside Louisiana, or pursuant to a telephone conference as permitted in Section 81(10) of the Louisiana Business Corporation Law (LSA-R.S. 12:81(10)), as the board may determine.

Section 3 — First Meeting. The first meeting of each newly-elected board of directors shall be held immediately following the annual meeting of shareholders, and no notice of such meeting shall be necessary to the newly-elected directors in order legally to constitute the meeting, provided a quorum is present; or they may meet at such time and place as fixed by the consent in writing of all of the directors. At the first meeting, or at any subsequent meeting called for the purpose, the directors shall elect the officers of the corporation.

Section 4 — Regular Directors' Meetings. Regular meetings of the directors may be held without notice, at such time and place as may be designated by the directors.

Section 5 — Special Directors' Meetings: How Called. Special meetings of the directors may be called by the Chairman of the Board or by the President on notice as provided in Section 6. Special meetings shall be called on like notice by the Chairman of the Board, the President, or the Secretary on the request of a majority of the directors or a majority of the members of the Executive Committee and, if any such officer fails, refuses or is unable to call a special meeting within 24 hours of such request, any director or Executive Committee member requesting such a meeting may call the meeting on notice as provided in Section 6.

Section 6 — Notice of Special Directors' Meetings. Special meetings of the directors (and of the first meeting of the newly elected board, if held on notice) may be given on notice of no less than two days or, in the case of meetings called at the request of a majority of the members of the Executive Committee, no less than eight hours, given to each director. Notice of two days or more may be given either personally or by telephone, mail, or facsimile transmission. Notice of less than two days may be given either personally or by telephone or facsimile transmission. Notice given by telephone shall be effective when given either directly to the director or to a person believed by the person calling the meeting to be an employee or relative of the director or a person able to deliver a message to the director promptly. Notice given by facsimile transmission shall be effective when transmitted to a facsimile receiver at an office or a residence of the director. Except as otherwise required by law or by these by-laws, the notice need not state the purpose or purposes of the meeting.

Section 7 — Quorum. At all meetings of the board, a majority of the directors in office and qualified to act in person or by proxy constitute a quorum for the transaction of business, and the action of a majority of the directors present in person or by proxy at any meeting at which a quorum is present is the action of the board of directors, unless the concurrence of a greater proportion is required for such action by law, the articles or these by-laws. If a quorum is not present at any meeting of directors, the directors present thereat may adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum is present. If a quorum be present, the directors present in person or by proxy may continue to act by vote of a majority of a quorum until adjournment, notwithstanding the subsequent withdrawal of enough directors to leave less than a quorum or the refusal of any directors present to vote.

Section 8 — Waiver. Any requirements of this Article as to meetings of directors and notices thereof may be waived, and shall be deemed to have been waived when all directors shall be present in person or by proxy at the meeting, or when the directors shall have signed a consent to the action taken, or to be taken, at the meeting. (See Article VII, Section 5.)

Section 9 — Compensation of Directors. The Board of Directors may by resolution determine the compensation of directors for their services as such and the reimbursement of directors for their actual expenses of attending meetings of the Board and committees thereof. Directors may serve the corporation in any other capacity and receive compensation therefor.

Directors, as such, may receive such salary for their services and such reimbursement of their expenses of attendance at meetings of directors as may be fixed by resolution of the board. This Section does not preclude any director from serving the corporation in any other capacity and receiving compensation therefor.

Section 10 — Powers of Directors. The board of directors is charged with the management of the business of the corporation, and subject to any restrictions imposed by law, the articles or these by-laws, may exercise all the powers of the corporation. Without prejudice to such general powers, the directors have the following specific powers:

a — From time to time, to devolve the powers and duties of any officer upon any other person for the time being.

b — To confer upon any officer the power to appoint, remove and suspend, and fix and change the compensation of, subordinate officers, agents and factors.

c — To determine who shall be entitled to vote, or to assign and transfer any shares of stock, bonds, debentures or other securities of other corporations held by this corporation.

d — To delegate any of the powers of the board to any standing or special committee or to any officer or agent (with power to subdelegate) upon such terms as they deem fit.

Section 11 — Resignations and Removal. The resignation of a director shall take effect on receipt thereof by the president or secretary, or on any later date, not more than thirty days after such receipt, specified therein. The shareholders, by vote of a majority of the total voting power at any special meeting called for the purpose, may remove from office any one or more of the directors with or without cause.

ARTICLE III
COMMITTEES

Section 1 — Executive Committee. If an executive committee is appointed, the president shall be a member, and the committee shall have all of the powers of the board when the board is not in session, except the power to declare dividends, make or alter by-laws, fill vacancies on the board or the executive committee, or change the membership of the executive committee.

Section 2 — Minutes of Meetings of Committees. Any committees designated by the board shall keep regular minutes of their proceedings, and shall report the same to the board when required, but no approval by the board of any action properly taken by a committee shall be required.

Section 3 — Procedure. If the board fails to designate the chairman of a committee, the president, if a member, shall be chairman. Each committee shall meet at such times as it shall determine, and at any time on call of the chairman. A majority of a committee constitutes a quorum, and the committee may take action either by vote of a majority of the members present at any meeting at which there is a quorum or by written concurrence of a majority of the members. In case of absence of disqualification of a member of a committee at any meeting thereof, the qualified members present, whether or not they constitute a quorum, may unanimously appoint a director to act in place of the absent or disqualified member. The board has power to change the members of any committee at any time, to fill vacancies, and to discharge any committee at any time.

ARTICLE IV
OFFICERS

Section 1 — Titles. The officers of the corporation shall be a president, one or more vice-presidents, a treasurer, a secretary, and such other officers as may, from time to time, be elected or appointed by the board. Any two officers may be combined in the same person, and none need be a director.

Section 2 — Chairman of the Board. The board of directors may designate one of its members as chairman of the board. The chairman of the board or another director designated by the chairman shall preside at meetings of directors and shareholders.

Section 3 — President. The President, unless otherwise provided by the Board, shall have general and active responsibility for the management of the business of the Corporation, shall be the chief executive and chief operating officer of the Corporation, shall supervise the daily operations of the business of the Corporation and shall ensure that all orders, policies and resolutions of the Board are carried out. He shall have power to execute all instruments on behalf of the Corporation and, in the absence of the chairman of the board or in the event that the chairman has not designated another director to do so, shall preside at meetings of the directors and shareholders.

Section 4 — Vice-Presidents. Each vice-president shall have such powers, and shall perform such duties, as shall be assigned to him by the directors or by the president, and, in the order determined by the board, shall, in the absence or disability of the president, perform his duties and exercise his powers.

Section 5 — Treasurer. The treasurer has custody of all funds, securities, evidences of indebtedness and other valuable documents of the corporation. He shall receive and give, or cause to be given, receipts and acquittances for moneys paid in on account of the corporation, and shall pay out of the funds on hand all just debts of the corporation of whatever nature, when due. He shall enter, or cause to be entered, in books of the corporation to be kept for that purpose, full and accurate accounts of all moneys received and paid out on account of the corporation, and, whenever required by the president or directors, he shall render a statement of his account. He shall keep or cause to be kept such books as will show a true record of the expenses, gains, losses, assets and liabilities of the corporation; and he shall perform all of the other duties incident to the office of treasurer. If required by the board, he shall give the corporation a bond for the faithful discharge of his duties and for restoration to the corporation, upon termination of his tenure, of all property of the corporation under his control.

Section 6 — Secretary. The secretary shall give, or cause to be given, notice of all meetings of shareholders, directors and committees, and all other notices required by law or by these by-laws, and in case of his absence or refusal or neglect so to do, any such notice may be given by the shareholders or directors upon whose request the meeting is called as provided in these by-laws. He shall record all the proceedings of the meetings of the shareholders, of the directors, and of committees in a book to be kept for that purpose. Except as otherwise determined by the directors, he shall have charge of the original stock book, transfer books and stock ledgers, and shall act as transfer agent in respect of the stock and other securities issued by the corporation. He shall have custody of the seal of the corporation, and shall affix it to all instruments requiring it; and he shall perform such other duties as may be assigned to him by the directors of the president.

Section 7 — Assistants. Assistant secretaries or treasurers shall have such duties as may be delegated to them by the secretary and treasurer respectively.

ARTICLE V
INDEMNIFICATION

Section 1 — General. The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any action, suit or proceeding, whether civil, criminal, administrative or investigative (including any action by or in right of the corporation) by reason of the fact that he is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another business, foreign or non-profit corporation, partnership, joint venture or other enterprise, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, if he acted in good faith and in a manner he reasonably believed to be in or not opposed to the best interest of the corporation, and, with respect to any criminal action or proceeding, has no reasonable cause to believe his conduct was unlawful; provided that, in case of actions by or in the right of the corporation, the indemnity shall be limited to expenses (including attorneys' fees and amounts paid in settlement not exceeding, in the judgment of the board of directors, the estimated expense of litigating the action to conclusion) actually and reasonably incurred in connection with the defense or settlement of such action, and no indemnification shall be made in respect of any claim, issue or matter as to which such person shall have been adjudged to be liable for negligence or misconduct in the performance of his duty to the corporation unless and only to the extent that the court shall determine upon application that, despite the adjudication of liability, but in view of all the circumstances of the case, he is fairly and reasonably entitled to indemnity for such expenses which the court shall deem proper. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent, shall not, of itself, create a presumption that the person did not act in good faith and in a manner which he reasonably believed to be in or not opposed to the best interests of the corporation, and, with respect to any criminal action or proceeding, and reasonable cause to believe that his conduct was unlawful.

Section 2 — Expenses of Litigation. To the extent that a director, officer, employee or agent of the corporation has been successful on the merits or otherwise in defense of any such action, suit or proceeding, or in defense of any claim, issue or matter therein, he shall be indemnified against expenses (including attorneys' fees) actually and reasonably incurred by him in connection therewith.

Section 3 — Determination by Directors. The indemnification hereunder (unless ordered by the court) shall be made by the corporation only as authorized in a specific case upon a determination that the applicable standard of conduct has been met. Such determination shall be made (a) by the board of directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (b) if such quorum is not obtainable or a quorum of disinterested directors so directs, by independent legal counsel, or (c) by the shareholders.

Section 4 — Advance of Expenses. The expenses incurred in defending such an action, suit or proceeding shall be paid by the corporation in advance of the final disposition thereof, upon receipt of an undertaking by or on behalf of the director, officer, employee or agent to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized hereunder. The board of directors may determine, by special resolution, not to have the corporation pay in advance the expenses incurred by any persons or person in the defense of any such action, suit or proceeding.

Section 5 — Other Rights. The indemnification provided hereunder shall not be deemed exclusive of any other rights to which one indemnified may be entitled, both as to action in his official capacity and as to action in another capacity while holding such office, and shall continue as to a person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of his heirs and legal representatives.

Section 6 — Insurance. The corporation may procure insurance on behalf of any person who is or was a director, officer, employee or agent of the corporation, or is or was serving at the request of the corporation as a director, officer, employee or agent of another business, non-profit or foreign corporation, partnership, joint venture or other enterprise, against any liability asserted against or incurred by him in any such capacity, or arising out of his status as such, whether or not the corporation would have the power to indemnify him against such liability under the Business Corporation Law of Louisiana.

ARTICLE VI
CAPITAL STOCK

Section 1 — Certificates of Stock. Subject to the requirements of the Louisiana Business Corporation Law, shares of stock may, but need not be, represented by certificates. Certificates for shares of the corporation that are issued shall be in such form as is consistent with the provisions of the Louisiana Business Corporation Law. Such certificates shall be numbered, with the seal of the corporation, or its facsimile, affixed, signed by the president or a vice-president, and the treasurer or secretary, or assistant secretary, and shall certify the number of shares of the corporation owned. If the stock certificates are countersigned by a transfer agent and a registrar, the signatures of the corporate officers may be a facsimile.

Section 2 — Lost Certificates. A new certificate of stock may be issued in place of any certificate theretofore issued by the corporation, alleged to have been lost, stolen, mutilated or destroyed, or mailed and not received, upon receipt of an affidavit or affirmation of that fact from the person claiming the loss. The directors may in their discretion require the owner of the replaced certificate to give the corporation a bond, unlimited as to stated amount or in any amount set by the directors, to indemnify the company against any claim which may be made against it on account of the replacement of the certificate or any payment made or other action taken in respect thereof.

Section 3 — Rules and Regulations Concerning the Issue, Transfer and Registration of Shares. The Board of Directors shall have power and authority to make all such rules and regulations as the Board may deem proper or expedient concerning the issue, transfer and registration of shares of stock. Any such rules and regulations shall be deemed bylaws of the Corporation.

Section 4 — Record Dates. The board may fix a record date for determining shareholders of record for any purpose, such date to be not more than sixty days and, if fixed for the purpose of determining shareholders entitled to notice of and to vote at a meeting, not less than ten days, prior to the date of the action for which the date is fixed.

Section 5 — Registered Shareholders. Except as otherwise provided by law, the corporation, and its directors, officers and agents, may recognize and treat a person registered on its records as the owner of shares, as the owner in fact thereof for all purposes, and as the person exclusively entitled to have and to exercise all rights and privileges incident to the ownership of such shares, and rights under this Section shall not be affected by an actual or constructive notice which the corporation, or any of its directors, officers or agents, may have to the contrary.

Section 6 — Dividends. Except as otherwise provided by law or the articles of incorporation, dividends upon the stock of the corporation may be declared by the board of directors at any regular or special meeting. Dividends may be paid in cash, in property, or in shares of stock.

Section 7 — Reserves. The board of directors may create and abolish reserves out of earned surplus for any proper purposes. Earned surplus so reserved shall not be available for payment of dividends, purchase or redemption of shares, or transfer to capital surplus or stated capital.

Section 8 — Transfer Agent, Registrar. The board may appoint and remove transfer agents and registrars for any class of stock. If this action is taken, the transfer agents shall effect original issuances of stock certificates and transfers of shares, record and advise the corporation and one another of such issuances and transfers, countersign and deliver stock certificates, and keep the stock, transfer and other pertinent records; and the registrars shall prevent over-issues by registering and counter-signing any stock certificates issued. A transfer agent and registrar may be identical. The transfer agents and registrars, when covered with the company as obligees by an indemnity bond substantially in a form, and issued by a surety company, approved by the corporation's general counsel and providing indemnity unlimited to stated amount, or in form and amount and signed by a surety approved by the board, and upon receipt of an appropriate affidavit and indemnity agreement, may (a) countersign, register and deliver, in place of any stock certificate alleged to have been lost, stolen, destroyed or mutilated, or to have been mailed and not received, a replacement certificate for the same number of shares, and make any payment, credit, transfer, issuance, conversion or exchange to which the holder may be entitled in respect to such replaced certificate, without surrender thereof for cancellation, and (b) effect transfers of shares from the names of deceased persons whose estates (not exceeding $20,000 gross asset value and not containing any immovable property) are not administered.

Section 9 — Shares without Certificates. The Board of Directors may authorize the issue of some or all of the shares without certificates. Within a reasonable time after the issue or transfer of shares without certificates, the corporation shall send the shareholder a written statement of the information required on certificates by the Louisiana Business Corporation Law.

ARTICLE VII
MISCELLANEOUS PROVISIONS

Section 1 — Corporate Seal. The corporate seal is circular in form, and contains the name of the corporation and the words, "SEAL, LOUISIANA." The seal may be used by causing it, or a facsimile thereof, to be impressed or affixed or otherwise reproduced.

Section 2 — Checks, Drafts, Notes. All checks, drafts, other orders for the payment of money, and notes or other evidences of indebtedness, issued in the name of the corporation, shall be signed by such officer or officers, agent or agents of the corporation and in such manner as shall, from time to time, be determined by the board.

Section 3 — Fiscal Year. The fiscal year of the corporation begins on July 1.

Section 4 — Notice. Whenever any notice is required by these by-laws to be given, personal notice is not meant unless expressly so stated. Any notice is sufficient if given by depositing it in the United States mail or by delivering it to a commercial courier service for next day delivery, with postage or delivery service charges prepaid and addressed to the person entitled thereto at his last known address as it appears in the records of the corporation; and such notice is deemed to have been given on the day of such deposit in the mail or delivery to the courier service.

Section 5 — Waiver of Notice. Whenever any notice of the time, place or purpose of any meeting of shareholders, directors or committee is required by law, the articles or these by-laws, a waiver thereof in writing, signed by the person or persons entitled to such notice and filed with the records of the meeting before or after the holder thereof, or actual attendance at the meeting of shareholders, directors or committee in person or by proxy, is equivalent to the giving of such notice except as otherwise provided by law. (See Article I, Section 8, and Article II, Section 8.)

Section 6 — Except as otherwise provided herein, all meetings of shareholders or directors shall be governed by the last published revised edition of Robert's Rules of Order.

Section 7 — Louisiana Control Share Law Inapplicable. The provisions of Sections 135 through 140.2 of the Louisiana Business Corporation Law ("LBCL") shall not apply to control share acquisitions, as defined in the LBCL, of shares of stock of the Corporation.

ARTICLE VIII
AMENDMENTS

The shareholders or the directors, by affirmative vote of a majority of those present or represented, may, at any meeting, amend or alter any of the by-laws; subject, however, to the right of the shareholders to change or repeal any by-laws made or amended by the directors.

ARTICLE IX
FORUM FOR ADJUDICATION OF DISPUTES.

Unless the corporation consents in writing to the selection of an alternative forum, the sole and exclusive forum for (i) any derivative action or proceeding brought on behalf of the corporation , (ii) any action or proceeding asserting a claim of breach of a fiduciary duty owed by any director, officer or other employee of the corporation to the corporation or the corporation's shareholders, (iii) any action or proceeding asserting a claim arising pursuant to, or seeking to enforce any right, obligation, or remedy under, any provision of the Louisiana Business Corporation Act, the articles or these by-laws (as each may be amended from time to time), or (iv) any action or proceeding asserting a claim governed by the internal affairs doctrine, in each case, shall be the Circuit Court of Cook County, Chancery Division, State of Illinois (or, if and only if the Circuit Court of Cook County, Chancery Division, State of Illinois lacks subject matter jurisdiction, any state court located within the State of Illinois or, if and only if all such state courts lack subject matter jurisdiction, the federal district court for the Northern District of Illinois).

As amended April 24, 2017

AKORN, INC. 2017 OMNIBUS INCENTIVE COMPENSATION PLAN

FORM OF RESTRICTED STOCK UNIT AWARD AGREEMENT

This Restricted Stock Unit Award Agreement (this "***Award Agreement***") is made and effective as of [DATE] (the "***Date of Grant***") between Akorn, Inc. (the "***Company***") and [FIRST NAME — LAST NAME] (the "***Participant***"), pursuant and subject to the provisions of the Akorn, Inc. 2017 Omnibus Incentive Compensation Plan (the "***Plan***"). Any capitalized term not otherwise defined herein shall have the meaning ascribed thereto in the Plan. Reference is made to that certain Agreement and Plan of Merger (the "***Merger Agreement***"), dated as of April 24, 2017, among the Company, Fresenius Kabi AG, a German stock corporation, Quercus Acquisition, Inc., a Louisiana corporation and a wholly owned subsidiary of Parent ("***Merger Sub***") and, solely for purposes of Article VIII thereof, Fresenius SE & Co. KGaA, a German partnership limited by shares.

1. Award of Restricted Stock Units. Pursuant to the provisions of the Plan and this Award Agreement, the Company shall and hereby does award to the Participant on the Date of Grant [TOTAL NUMBER OF RESTRICTED STOCK UNITS GRANTED] restricted stock units (the "***Restricted Stock Units***"), subject to the terms and conditions of this Award Agreement and the Plan.

2. Vesting Schedule. The Restricted Stock Units are subject to forfeiture as of the Date of Grant and shall vest and cease to be forfeitable in installments on the applicable date for such installment as set forth below (each such date, a "***Normal Vesting Date***"), in each case subject to the Participant's continued employment through the applicable Normal Vesting Date. For purposes of this Award Agreement, except as otherwise provided in Section 19 or as otherwise determined by the Committee, the Participant's employment with the Company shall be deemed to continue so long as the Participant is employed by, or is otherwise providing services as a director, officer or consultant to, the Company or any of its Subsidiaries or Affiliates.

Normal Vesting Date	**Number of Restricted Stock Units**
[VEST DATE PERIOD1	NUMBER OF UNITS PERIOD1]
[VEST DATE PERIOD2	NUMBER OF UNITS PERIOD2]
[VEST DATE PERIOD3	NUMBER OF UNITS PERIOD3]
[VEST DATE PERIOD4	NUMBER OF UNITS PERIOD4]

Subject to Section 3, any unvested Restricted Stock Units shall immediately and automatically terminate and be forfeited as of the date of the Participant's termination of employment with the Company for any reason or as of the date of the Participant's death or Disability, in each case prior to the applicable Normal Vesting Date set forth above. For purposes of this Award Agreement, "Disability" means total and permanent disability as defined in Section 22(e)(3) of the Code.

3. Change of Control.

(a) In the event of a Change of Control, unless provision is made in connection with the Change of Control for (1) assumption of the Restricted Stock Units or (2) substitution for the Restricted Stock Units of new awards covering stock of a successor corporation or its "parent corporation" (as defined in Section 424(e) of the Code) or "subsidiary corporation" (as defined in Section 424(f) of the Code) with appropriate adjustments as to the number and kinds of shares underlying the Restricted Stock Units, all unvested Restricted Stock Units shall automatically vest as of immediately prior to such Change of Control and shall be settled in accordance with Section 5; provided that in the event of the consummation of the Merger (as defined in the Merger Agreement), all unvested Restricted Stock Units shall automatically be converted into an unvested award representing the opportunity to receive cash payments as described in Sections 2.03(c) and 2.04 of the Merger Agreement (the Restricted Stock Units as so converted, the "***Converted Award***").

[The bracketed language in Section 3(b) may be included upon the determination of the Compensation Committee.**]**

(b) In the event the Restricted Stock Units are assumed or substituted by the successor company or its Affiliate in connection with a Change of Control or converted into the Converted Award in each case as described in clause (a) of this Section 3, if the Participant's employment is terminated without Cause or by the Participant for Good Reason [(a "***Qualifying Termination***")] following the Change of Control, all unvested Restricted Stock Units (or the Converted Award, as applicable) shall automatically vest immediately prior to such termination and shall be settled in accordance with Section 5. [**Notwithstanding Section 2, in the event a Qualifying Termination occurs prior to a Change of Control at the request of a third party who had indicated an intention or taken steps reasonably calculated to effect a Change of Control, the Restricted Stock Units shall cease vesting pursuant to their normal vesting schedule on the date of the Qualifying Termination but shall not lapse or be forfeited on such date. Instead, the Restricted Stock Units shall remain outstanding during the 90-day period immediately following the date of such Qualifying Termination, and in the event a Change of Control involving such third party (or a party competing with such third party to effectuate a Change of Control) subsequently occurs during such 90-day period, the Restricted Stock Units (or the Converted Award, as applicable) shall become vested on the date of such Change of Control involving such third party (or a party competing with such third party to effectuate a Change of Control) as if the Qualifying Termination occurred immediately following, and on the same day as, the Change of Control. In the event a Change of Control involving such third party (or a party competing with such third party to effectuate a Change of Control) does not subsequently occur during such 90-day period, the Restricted Stock Units shall immediately and automatically terminate and be forfeited as of the end of such 90-day period.] For purposes of this Award Agreement:

(1) "***Cause***" means the Participant's (1) personal dishonesty, (2) misconduct, (3) breach of fiduciary duty, (4) incompetence, (5) intentional failure to perform stated obligations, (6) willful violation of any law, rule, regulation or final cease and desist order, or (7) any material breach of any provision of the Plan, this Award Agreement, or any employment agreement; and

(2) "***Good Reason***" means, without the Participant's prior written consent, [(i)] the Company's requiring the Participant to be based at a location outside a 50-mile radius from the Participant's job location or residence, except for travel that is reasonably necessary in

connection with the Company's business [**, or (ii) within the 90-day period prior to or the 12-month period immediately following the Change of Control, the occurrence of one or more of the following:

A. a change in the Participant's employment status or responsibilities with the Company which represents a material and adverse change from the Participant's status or responsibilities, or the assignment to the Participant of any employment duties or responsibilities which are materially inconsistent with the Participant's employment status or responsibilities, or any action by the Company that results in a material diminution in the Participant's position, authority, duties or responsibilities (in either case without sole regard to any change in title or the Company's status as a public or private entity);

B. a reduction in the Participant's base salary for employment with the Company to a level below that in effect at any time previously (except to the extent such reduction is not due to a Change of Control and is part of a comprehensive reduction in salary applicable to employees of the Company generally, so long as such reduction applicable to the Participant is comparable to the reduction applied to other employees of the Company at the same career level);

C. the insolvency or the filing (by any party, including the Company) of a petition for bankruptcy of the Company, which petition is not dismissed within sixty days; or

D. the failure of the Company to obtain an agreement, satisfactory to the Participant, from any successor company or assigns to assume or substitute and agree to maintain this Award Agreement;]

provided, however, that the Participant shall be treated as having terminated for Good Reason only if he or she provides the Company with a notice of termination within 90 days of the initial existence of [one of]the condition[s] described above, following which the Company shall have 30 days from the receipt of the notice of termination to cure the event specified in the notice of termination and, if the Company fails to so cure the event, the Participant must terminate his or her employment not later than 30 days following the end of such cure period.

4. Vesting Date. The "***Vesting Date***" means the date that a Restricted Stock Unit (or the Converted Award, as applicable) is no longer subject to forfeiture and is vested in accordance with Section 2 or Section 3, as applicable.

5. Settlement. Each Restricted Stock Unit represents the right to receive one Share on the applicable Vesting Date. The Participant shall have no right to settlement of any such Restricted Stock Units prior to the applicable Vesting Date. Prior to payment of any vested Restricted Stock Unit, such Restricted Stock Unit shall represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company. Any Restricted Stock Units that vest in accordance with Section 2 or Section 3 (as applicable) shall be paid to the Participant in whole Shares, subject to the Participant satisfying any applicable related tax liabilities. Subject to the provisions of Section 6, such vested Restricted Stock Units shall be paid in whole Shares (or in cash, in the case of the Converted Award) as soon as practicable after vesting, but in no event later than sixty days following the Vesting Date. In no event shall the Participant be permitted, directly or indirectly, to specify the taxable year of the payment of any Restricted Stock Units (or the Converted Award, as applicable) payable under this Award Agreement. The payment of Shares (or cash, in the case of the Converted Award) pursuant to this Award Agreement shall in all cases be paid at a time or in a manner that is exempt from, or complies with, Section 409A.

6. Withholding.

(a) The Participant shall be required to pay to the Company or any Affiliate the amount of any applicable withholding taxes in respect of the Restricted Stock Units and to take such other action as may be necessary in the opinion of the Committee or the Company to satisfy all obligations for the payment of such taxes.

(b) Without limiting the generality of Section 6(a), subject to the Committee's discretion, the Participant may satisfy, in whole or in part, the foregoing withholding liability by having the Company withhold from the number of Shares otherwise issuable pursuant to the vesting of the Restricted Stock Units a number of Shares having a Fair Market Value equal to such withholding liability (or cash having a value equal to such withholding liability, in the case of the Converted Award).

(c) Notwithstanding any provision of this Award Agreement to the contrary, no certificate representing the Shares (or cash, in the case of the Converted Award) shall be issued to the Participant until the Participant satisfies all withholding and payment obligations payable upon vesting of the Restricted Stock Units (or the Converted Award, as applicable) which the Company determines must be withheld with respect to such Shares.

7. Participant Acknowledgments. By executing this Award Agreement, the Participant acknowledges and agrees as follows:

(a) The Company is not providing the Participant with advice, warranties or representations regarding any of the legal or tax effects to the Participant with respect to this Award Agreement.

(b) The Participant acknowledges that he or she is (1) familiar with the terms of the grant made to him or her under this Award Agreement and the Plan, (2) has been encouraged by the Company to discuss the grant and the Plan with his or her own legal and tax advisers, and (3) agrees to be bound by the terms of the grant and the Plan.

8. Rights as Stockholder. None of the Participant or holder or beneficiary of the Restricted Stock Units shall have any rights as a stockholder with respect to any Shares to be distributed under this Award Agreement until he or she has become the holder of such Shares, at which point the Participant shall have all the rights of a stockholder of the Company, including with respect to voting such Shares and receipt of dividends and distributions on such Shares. In no event shall the Participant be entitled to receive dividends or dividend equivalents with respect to any Shares deliverable under this Award Agreement prior to the vesting and settlement of the Restricted Stock Units (or the Converted Award, as applicable). **[In no event shall the Participant be entitled to receive dividends or dividend equivalents with respect to any Shares deliverable under this Award Agreement with respect to the 90-day period described in Section 3(b).]

9. Transferability; Successors and Assigns. During the Participant's lifetime, prior to the applicable Vesting Date, no Restricted Stock Unit (or any rights and obligations related thereto) may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by the Participant otherwise than by will or by the laws of descent and distribution, and any such purported assignment, alienation, pledge, attachment, sale, transfer or encumbrance shall

be void and unenforceable against the Company or any Affiliate; provided that, (a) the designation of a beneficiary shall not constitute an assignment, alienation, pledge, attachment, sale, transfer or encumbrance and (b) the Board or the Committee may permit further transferability, on a general or specific basis, and may impose conditions and limitations on any permitted transferability. Notwithstanding the foregoing, in no event shall the Restricted Stock Units (or the Converted Award, as applicable) be transferred to a third party for value unless such transfer is specifically approved by the Committee. All terms and conditions of the Plan and the Award Agreement shall be binding upon any permitted successors and assigns.

10. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the second business day following the date mailed by United States Mail, postage prepaid, to the parties or their assignees at the following addresses, or at such other address as shall be given in writing by either party to the other:

Company: Human Resources Department
cc: Legal Department Akorn, Inc.
1925 West Field Court Suite #300
Lake Forest, Illinois 60045

Participant: [FIRST NAME — LAST NAME]
[ADDRESS LINE]
[CITY, STATE ZIP CODE]

11. Choice of Law and Venue. The Plan and this Award Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to the conflict of laws provisions thereof. Any legal proceeding arising out of this Award Agreement shall be brought only in a state or Federal court of competent jurisdiction located in Chicago, Illinois.

12. Amendment. Except as otherwise set forth in the Plan, this Award Agreement may be amended or modified only by the written agreement of the parties hereto.

13. Entire Agreement. The Plan and this Award Agreement and the other documents delivered hereunder (if any) constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof, and supersedes all prior agreements, understandings, inducements or conditions, express or implied, oral or written, relating to the subject matter hereof, except as herein contained. The express terms of the Plan and this Award Agreement control and supersede any course of performance or usage of trade inconsistent with any of the terms hereof.

14. Attorneys' Fees. If any legal action is necessary to enforce the terms of this Award Agreement, the prevailing party shall be entitled to recover, in addition to other amounts to which the prevailing party may be entitled, actual attorneys' fees and costs.

15. Severability. If any provision of this Award Agreement is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction or as to any Person, or would disqualify this Award Agreement under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of this Award Agreement, such provision shall be construed or deemed stricken as to such jurisdiction or Person and the remainder of this Award Agreement shall remain in full force and effect.

16. Counterparts. This Award Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. Signatures by facsimile and other electronic means shall be valid and enforceable.

17. Additional Conditions to Issuance of Shares. The vesting of the Restricted Stock Units and the issuance and transfer of Shares shall be subject to compliance by the Company and the Participant with all applicable requirements of Federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's Shares may be listed. No Shares shall be issued pursuant to this Award Agreement unless and until any then applicable requirements of Federal or state laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel. The Participant understands that the Company is under no obligation to register the Shares with the Securities and Exchange Commission, any state securities commission or any stock exchange to effect such compliance. If at any time the Company shall determine, in its sole discretion, that the listing, registration, qualification or rule compliance of the Shares upon any securities exchange or under any state or Federal law, the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to the Participant (or his or her estate) hereunder, such issuance shall not occur unless and until such listing, registration, qualification, rule compliance, consent or approval shall have been completed, effected or obtained free of any conditions not acceptable to the Company. Where the Company determines that the delivery of the payment of any Shares will violate U.S. Federal securities laws or any other applicable securities or exchange control laws, the Company shall defer delivery until the earliest date on which the Company reasonably concludes, in its sole discretion, that the delivery of such Shares will no longer cause such violation. The Company shall make all reasonable efforts to meet the requirements of any such Federal or state law or securities exchange and to obtain any such consent or approval of any such governmental authority or securities exchange.

18. Clawback Policy. Notwithstanding any provision of the Plan or this Award Agreement to the contrary, outstanding Restricted Stock Units may be cancelled, and the Company may require the Participant to return Shares (or the Fair Market Value of such Shares as of the date on which such Shares were delivered to the Participant) and any other amount required by the Dodd-Frank Wall Street Reform and Consumer Protection Act or other applicable law, or the Company's Clawback Policy or any other applicable policy of the Company or its Subsidiaries, including as may be adopted following the date hereof.

19. Section 409A.

(a) It is intended that the Restricted Stock Units granted pursuant to this Award Agreement comply with, or are exempt from, Section 409A of the Code, and all provisions of the Award Agreement shall be construed and interpreted in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A of the Code.

(b) If, at the time of the Participant's separation from service (within the meaning of Section 409A of the Code), (1) the Participant shall be a specified employee (within the meaning of Section 409A of the Code and using the identification methodology selected by the Company from time to time) and (2) the Company makes a good faith determination that an amount payable pursuant to this Award Agreement constitutes deferred compensation (within the meaning of Section 409A of the Code) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in Section 409A of the Code in order to avoid taxes or penalties under Section 409A of the Code, then the Company shall not pay such amount on the otherwise scheduled payment date but shall instead pay it on the first business day after such six-month period. Such amount shall be paid without interest, unless otherwise determined by the Committee, in its sole discretion.

(c) A termination of employment shall not be deemed to have occurred for purposes of any provision of this Award Agreement providing for the payment of any amount upon or following a termination of employment that is nonqualified deferred compensation subject to Section 409A of the Code unless such termination is also a "separation from service" within the meaning of Section 409A of the Code and, for purposes of this Award Agreement, all references to "termination of employment" and correlative phrases shall be construed to require a "separation from service" within the meaning of Section 409A of the Code.

(d) Notwithstanding any provision of the Plan or this Award Agreement to the contrary, in light of the uncertainty with respect to the proper application of Section 409A of the Code, the Company reserves the right to make amendments to this Award Agreement as the Company deems necessary or desirable to avoid the imposition of taxes or penalties under Section 409A of the Code. In any case, the Participant shall be solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on the Participant or for the Participant's account in connection with this Award Agreement (including any taxes and penalties under Section 409A of the Code), and neither the Company nor any of its Affiliates shall have any obligation to indemnify or otherwise hold the Participant harmless from any or all of such taxes or penalties.

(e) Each payment payable under this Award Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

ACCEPTANCE AND ACKNOWLEDGMENT

I, [FIRST NAME — LAST NAME] a resident of the State of [STATE], accept the Restricted Stock Unit Award awarded described in this Award Agreement and in the Plan, and acknowledge receipt of a copy of the Plan and this Award Agreement. I further acknowledge that I have read the Plan and Award Agreement carefully, I fully understand their contents, and I agree to be bound by the same.

AKORN, INC. 2017 OMNIBUS INCENTIVE COMPENSATION PLAN

FORM OF RESTRICTED STOCK UNIT AWARD AGREEMENT (NON-EMPLOYEE DIRECTOR)

This Restricted Stock Unit Award Agreement (this “***Award Agreement***”) is made and effective as of [DATE] (the “***Date of Grant***”) between Akorn, Inc. (the “***Company***”) and [FIRST NAME — LAST NAME] (the “***Participant***”), pursuant and subject to the provisions of the Akorn, Inc. 2017 Omnibus Incentive Compensation Plan (the “***Plan***”). Any capitalized term not otherwise defined herein shall have the meaning ascribed thereto in the Plan. Reference is made to that certain Agreement and Plan of Merger (the “***Merger Agreement***”), dated as of April 24, 2017, among the Company, Fresenius Kabi AG, a German stock corporation, Quercus Acquisition, Inc., a Louisiana corporation and a wholly owned subsidiary of Parent (“***Merger Sub***”) and, solely for purposes of Article VIII thereof, Fresenius SE & Co. KGaA, a German partnership limited by shares.

1. Award of Restricted Stock Units. Pursuant to the provisions of the Plan and this Award Agreement, the Company shall and hereby does award to the Participant on the Date of Grant [TOTAL NUMBER OF RESTRICTED STOCK UNITS GRANTED] restricted stock units (the “***Restricted Stock Units***”), subject to the terms and conditions of this Award Agreement and the Plan.

2. Vesting Schedule. The Restricted Stock Units are subject to forfeiture as of the Date of Grant and shall vest and cease to be forfeitable in installments on the applicable date for such installment as set forth below (each such date, a “***Normal Vesting Date***”), in each case subject to the Participant’s continued service with the Company through the applicable Normal Vesting Date. For purposes of this Award Agreement, except as otherwise provided in Section 17 or as otherwise determined by the Committee, the Participant’s service with the Company shall be deemed to continue so long as the Participant is employed by, or is otherwise providing services as a director, officer or consultant to, the Company or any of its Subsidiaries or Affiliates.

Normal Vesting Date	Number of Restricted Stock Units
[VEST DATE PERIOD1	NUMBER OF UNITS PERIOD1]
[VEST DATE PERIOD2	NUMBER OF UNITS PERIOD2]
[VEST DATE PERIOD3	NUMBER OF UNITS PERIOD3]
[VEST DATE PERIOD4	NUMBER OF UNITS PERIOD4]

Subject to Section 3, any unvested Restricted Stock Units shall immediately and automatically terminate and be forfeited as of the date of the Participant’s termination of service with the Company for any reason or as of the date of the Participant’s death or Disability, in each case prior to the applicable Normal Vesting Date set forth above. For purposes of this Award Agreement, “Disability” means total and permanent disability as defined in Section 22(e)(3) of the Code.

3. Change of Control.

(a) In the event of a Change of Control, unless provision is made in connection with the Change of Control for (1) assumption of the Restricted Stock Units or (2) substitution for the Restricted Stock Units of new awards covering stock of a successor corporation or its “parent corporation” (as defined in Section 424(e) of the Code) or “subsidiary corporation” (as defined in Section 424(f) of the Code) with appropriate adjustments as to the number and kinds of shares underlying the Restricted Stock Units, all unvested Restricted Stock Units shall automatically vest as of immediately prior to such Change of Control and shall be settled in accordance with Section 5; provided that in the event of the consummation of the Merger (as defined in the Merger Agreement), all unvested Restricted Stock Units shall automatically be converted into an unvested award representing the opportunity to receive cash payments as described in Sections 2.03(c) and 2.04 of the Merger Agreement (the Restricted Stock Units as so converted, the “***Converted Award***”).

(b) In the event the Restricted Stock Units are assumed or substituted by the successor company or its Affiliate in connection with a Change of Control or converted into the Converted Award in each case as described in clause (a) of this Section 3, if the Participant’s service with the Company is terminated for any reason following the Change of Control (including, for the avoidance of doubt, the termination of the Participant’s service with the Company that shall occur in connection with the consummation of the Merger), all unvested Restricted Stock Units (or the Converted Award, as applicable) shall automatically vest immediately prior to such termination and shall be settled in accordance with Section 5.

4. Vesting Date. The “***Vesting Date***” means the date that a Restricted Stock Unit (or the Converted Award, as applicable) is no longer subject to forfeiture and is vested in accordance with Section 2 or Section 3, as applicable.

5. Settlement. Each Restricted Stock Unit represents the right to receive one Share on the applicable Vesting Date. The Participant shall have no right to settlement of any such Restricted Stock Units prior to the applicable Vesting Date. Prior to payment of any vested Restricted Stock Unit, such Restricted Stock Unit shall represent an unsecured obligation of the Company, payable (if at all) only from the general assets of the Company. Any Restricted Stock Units that vest in accordance with Section 2 or Section 3 (as applicable) shall be paid to the Participant in whole Shares. Such vested Restricted Stock Units shall be paid in whole Shares (or in cash, in the case of the Converted Award) as soon as practicable after vesting, but in no event later than sixty days following the Vesting Date. In no event shall the Participant be permitted, directly or indirectly, to specify the taxable year of the payment of any Restricted Stock Units (or the Converted Award, as applicable) payable under this Award Agreement. The payment of Shares (or cash, in the case of the Converted Award) pursuant to this Award Agreement shall in all cases be paid at a time or in a manner that is exempt from, or complies with, Section 409A.

6. Participant Acknowledgments. By executing this Award Agreement, the Participant acknowledges and agrees as follows:

(a) The Company is not providing the Participant with advice, warranties or representations regarding any of the legal or tax effects to the Participant with respect to this Award Agreement and the Participant shall be responsible for all taxes incurred by the Participant in connection with the grant, vesting or settlement of the Restricted Stock Units.

(b) The Participant acknowledges that he or she is (1) familiar with the terms of the grant made to him or her under this Award Agreement and the Plan, (2) has been encouraged by the Company to discuss the grant and the Plan with his or her own legal and tax advisers, and (3) agrees to be bound by the terms of the grant and the Plan.

7. Rights as Stockholder. None of the Participant or holder or beneficiary of the Restricted Stock Units shall have any rights as a stockholder with respect to any Shares to be distributed under this Award Agreement until he or she has become the holder of such Shares, at which point the Participant shall have all the rights of a stockholder of the Company, including with respect to voting such Shares and receipt of dividends and distributions on such Shares. In no event shall the Participant be entitled to receive dividends or dividend equivalents with respect to any Shares deliverable under this Award Agreement prior to the vesting and settlement of the Restricted Stock Units (or the Converted Award, as applicable).

8. Transferability; Successors and Assigns. During the Participant's lifetime, prior to the applicable Vesting Date, no Restricted Stock Unit (or any rights and obligations related thereto) may be assigned, alienated, pledged, attached, sold or otherwise transferred or encumbered by the Participant otherwise than by will or by the laws of descent and distribution, and any such purported assignment, alienation, pledge, attachment, sale, transfer or encumbrance shall be void and unenforceable against the Company or any Affiliate; provided that, (a) the designation of a beneficiary shall not constitute an assignment, alienation, pledge, attachment, sale, transfer or encumbrance and (b) the Board or the Committee may permit further transferability, on a general or specific basis, and may impose conditions and limitations on any permitted transferability. Notwithstanding the foregoing, in no event shall the Restricted Stock Units (or the Converted Award, as applicable) be transferred to a third party for value unless such transfer is specifically approved by the Committee. All terms and conditions of the Plan and the Award Agreement shall be binding upon any permitted successors and assigns.

9. Notices. All notices, requests, demands and other communications hereunder shall be in writing and shall be deemed to have been duly given on the second business day following the date mailed by United States Mail, postage prepaid, to the parties or their assignees at the following addresses, or at such other address as shall be given in writing by either party to the other:

Company: Human Resources Department
cc: Legal Department Akorn, Inc.
1925 West Field Court Suite #300
Lake Forest, Illinois 60045

Participant: [FIRST NAME — LAST NAME]
[ADDRESS LINE]
[CITY, STATE ZIP CODE]

10. Choice of Law and Venue. The Plan and this Award Agreement and all questions relating to its validity, interpretation, performance and enforcement shall be governed by and construed in accordance with the laws of the State of Illinois, without giving effect to the conflict of laws provisions thereof. Any legal proceeding arising out of this Award Agreement shall be brought only in a state or Federal court of competent jurisdiction located in Chicago, Illinois.

11. Amendment. Except as otherwise set forth in the Plan, this Award Agreement may be amended or modified only by the written agreement of the parties hereto.

12. Entire Agreement. The Plan and this Award Agreement and the other documents delivered hereunder (if any) constitute the full and entire understanding and agreement between the parties with regard to the subject matter hereof, and supersedes all prior agreements, understandings, inducements or conditions, express or implied, oral or written, relating to the subject matter hereof, except as herein contained. The express terms of the Plan and this Award Agreement control and supersede any course of performance or usage of trade inconsistent with any of the terms hereof.

13. Attorneys' Fees. If any legal action is necessary to enforce the terms of this Award Agreement, the prevailing party shall be entitled to recover, in addition to other amounts to which the prevailing party may be entitled, actual attorneys' fees and costs.

14. Severability. If any provision of this Award Agreement is or becomes or is deemed to be invalid, illegal or unenforceable in any jurisdiction or as to any Person, or would disqualify this Award Agreement under any law deemed applicable by the Committee, such provision shall be construed or deemed amended to conform to the applicable laws, or if it cannot be construed or deemed amended without, in the determination of the Committee, materially altering the intent of this Award Agreement, such provision shall be construed or deemed stricken as to such jurisdiction or Person and the remainder of this Award Agreement shall remain in full force and effect.

15. Counterparts. This Award Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original as against any party whose signature appears thereon, and all of which shall together constitute one and the same instrument. Signatures by facsimile and other electronic means shall be valid and enforceable.

16. Additional Conditions to Issuance of Shares. The vesting of the Restricted Stock Units and the issuance and transfer of Shares shall be subject to compliance by the Company and the Participant with all applicable requirements of Federal and state securities laws and with all applicable requirements of any stock exchange on which the Company's Shares may be listed. No Shares shall be issued pursuant to this Award Agreement unless and until any then applicable requirements of Federal or state laws and regulatory agencies have been fully complied with to the satisfaction of the Company and its counsel. The Participant understands that the Company is under no obligation to register the Shares with the Securities and Exchange Commission, any state securities commission or any stock exchange to effect such compliance. If at any time the Company shall determine, in its sole discretion, that the listing, registration, qualification or rule compliance of the Shares upon any securities exchange or under any state or Federal law, the tax code and related regulations or the consent or approval of any governmental regulatory authority is necessary or desirable as a condition to the issuance of Shares to the Participant (or his or her estate) hereunder, such issuance shall not occur unless and until such listing, registration, qualification, rule compliance, consent or approval shall have been completed, effected or obtained free of any conditions not acceptable to the Company. Where the Company determines that the delivery of the payment of any Shares will violate U.S. Federal securities laws or any other applicable securities or exchange control laws, the Company shall defer delivery until the earliest date on which the Company reasonably concludes, in its sole discretion, that the delivery of such Shares will no longer cause such violation. The Company shall make all reasonable efforts to meet the requirements of any such Federal or state law or securities exchange and to obtain any such consent or approval of any such governmental authority or securities exchange.

17. Section 409A.

(a) It is intended that the Restricted Stock Units granted pursuant to this Award Agreement comply with, or are exempt from, Section 409A of the Code, and all provisions of the Award Agreement shall be construed and interpreted in a manner consistent with the requirements for avoiding taxes or penalties under Section 409A of the Code.

(b) If, at the time of the Participant's separation from service (within the meaning of Section 409A of the Code), (1) the Participant shall be a specified employee (within the meaning of Section 409A of the Code and using the identification methodology selected by the Company from time to time) and (2) the Company makes a good faith determination that an amount payable pursuant to this Award Agreement constitutes deferred compensation (within the meaning of Section 409A of the Code) the payment of which is required to be delayed pursuant to the six-month delay rule set forth in Section 409A of the Code in order to avoid taxes or penalties under Section 409A of the Code, then the Company shall not pay such amount on the otherwise scheduled payment date but shall instead pay it on the first business day after such six-month period. Such amount shall be paid without interest, unless otherwise determined by the Committee, in its sole discretion.

(c) Notwithstanding any provision of the Plan or this Award Agreement to the contrary, in light of the uncertainty with respect to the proper application of Section 409A of the Code, the Company reserves the right to make amendments to this Award Agreement as the Company deems necessary or desirable to avoid the imposition of taxes or penalties under Section 409A of the Code. In any case, the Participant shall be solely responsible and liable for the satisfaction of all taxes and penalties that may be imposed on the Participant or for the Participant's account in connection with this Award Agreement (including any taxes and penalties under Section 409A of the Code), and neither the Company nor any of its Affiliates shall have any obligation to indemnify or otherwise hold the Participant harmless from any or all of such taxes or penalties.

(d) Each payment payable under this Award Agreement is intended to constitute a separate payment for purposes of Section 1.409A-2(b)(2) of the Treasury Regulations.

ACCEPTANCE AND ACKNOWLEDGMENT

I, [FIRST NAME — LAST NAME] a resident of the State of [STATE], accept the Restricted Stock Unit Award awarded described in this Award Agreement and in the Plan, and acknowledge receipt of a copy of the Plan and this Award Agreement. I further acknowledge that I have read the Plan and Award Agreement carefully, I fully understand their contents, and I agree to be bound by the same.

EXHIBIT 31.1

CERTIFICATION OF PRINCIPAL EXECUTIVE OFFICER

I, Rajat Rai, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Akorn, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant’s other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant’s disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant’s internal control over financial reporting that occurred during the registrant’s most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant’s internal control over financial reporting; and

5. The registrant’s other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant’s auditors and the audit committee of the registrant’s board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant’s ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant’s internal control over financial reporting.

/s/ RAJAT RAI

Rajat Rai
Chief Executive Officer

Date: May 4, 2017

EXHIBIT 31.2

CERTIFICATION OF PRINCIPAL FINANCIAL OFFICER

I, Duane A. Portwood, certify that:

1. I have reviewed this Quarterly Report on Form 10-Q of Akorn, Inc.;

2. Based on my knowledge, this report does not contain any untrue statement of a material fact or omit to state a material fact necessary to make the statements made, in light of the circumstances under which such statements were made, not misleading with respect to the period covered by this report;

3. Based on my knowledge, the financial statements, and other financial information included in this report, fairly present in all material respects the financial condition, results of operations and cash flows of the registrant as of, and for, the periods presented in this report;

4. The registrant's other certifying officer and I are responsible for establishing and maintaining disclosure controls and procedures (as defined in Exchange Act Rules 13a-15(e) and 15d-15(e)) and internal control over financial reporting (as defined in Exchange Act Rules 13a-15(f) and 15d-15(f)) for the registrant and have:

(a) Designed such disclosure controls and procedures, or caused such disclosure controls and procedures to be designed under our supervision, to ensure that material information relating to the registrant, including its consolidated subsidiaries, is made known to us by others within those entities, particularly during the period in which this report is being prepared;

(b) Designed such internal control over financial reporting, or caused such internal control over financial reporting to be designed under our supervision, to provide reasonable assurance regarding the reliability of financial reporting and the preparation of financial statements for external purposes in accordance with generally accepted accounting principles;

(c) Evaluated the effectiveness of the registrant's disclosure controls and procedures and presented in this report our conclusions about the effectiveness of the disclosure controls and procedures, as of the end of the period covered by this report based on such evaluation; and

(d) Disclosed in this report any change in the registrant's internal control over financial reporting that occurred during the registrant's most recent fiscal quarter that has materially affected, or is reasonably likely to materially affect, the registrant's internal control over financial reporting; and

5. The registrant's other certifying officer and I have disclosed, based on our most recent evaluation of internal control over financial reporting, to the registrant's auditors and the audit committee of the registrant's board of directors (or persons performing the equivalent functions):

(a) All significant deficiencies and material weaknesses in the design or operation of internal control over financial reporting which are reasonably likely to adversely affect the registrant's ability to record, process, summarize and report financial information; and

(b) Any fraud, whether or not material, that involves management or other employees who have a significant role in the registrant's internal control over financial reporting.

/s/ DUANE A. PORTWOOD

Duane A. Portwood
Chief Financial Officer

Date: May 4, 2017

EXHIBIT 32.1

CERTIFICATION PURSUANT TO 18 U.S.C. 1350

In connection with the Quarterly Report of Akorn, Inc. (the "Company") on Form 10-Q for the period ended March 31, 2017, as filed with the Securities and Exchange Commission and to which this Certification is an exhibit (the "Report"), the undersigned officer of the Company does hereby certify, pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) and Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934 (17 CFR 240.13a-14(b)), that to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2017

/s/ RAJAT RAI

Rajat Rai
Chief Executive Officer

EXHIBIT 32.2

CERTIFICATION PURSUANT TO 18 U.S.C. 1350

In connection with the Quarterly Report of Akorn, Inc. (the “Company”) on Form 10-Q for the period ended March 31, 2017, as filed with the Securities and Exchange Commission and to which this Certification is an exhibit (the “Report”), the undersigned officer of the Company does hereby certify, pursuant to Section 1350 of Chapter 63 of Title 18 of the United States Code (18 U.S.C. 1350) and Rule 13a-14(b) promulgated under the Securities Exchange Act of 1934 (17 CFR 240.13a-14(b)), that to my knowledge:

(1) The Report fully complies with the requirements of section 13(a) or 15(d) of the Securities Exchange Act of 1934; and

(2) The information contained in the Report fairly presents, in all material respects, the financial condition and results of operations of the Company.

Date: May 4, 2017

/s/ DUANE A. PORTWOOD

Duane A. Portwood
Chief Financial Officer