

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE DISTRICT OF DELAWARE**

In re:

AKORN, INC.,¹

Debtors.

)
) Chapter 11
)
) Case No. 20-11177 (KBO)
)
) (Jointly Administered)
)
) **Re: Docket No. 131**

**ORDER AUTHORIZING THE EMPLOYMENT AND RETENTION
OF PJT PARTNERS LP AS INVESTMENT BANKER FOR THE DEBTORS
AND DEBTORS IN POSSESSION, EFFECTIVE AS OF THE PETITION DATE**

Upon the application (the “Application”)² of the above-captioned debtors and debtors in possession (collectively, the “Debtors”) for entry of an order (this “Order”) (a) authorizing the employment and retention of PJT Partners LP (“PJT”) as investment banker for the Debtors, in accordance with the terms and conditions set forth in that certain engagement letter, including any amendments and schedules thereto, dated as of March 20, 2020, attached hereto as **Exhibit 1** (the “Engagement Letter”), effective as of the Petition Date, and (b) modifying certain time keeping requirements, all as more fully set forth in the Application; and upon the Buschmann Declaration; and this Court having jurisdiction over this matter pursuant to 28 U.S.C. §§ 157 and 1334 and the *Amended Standing Order of Reference* from the United States District Court for the District of Delaware, dated February 29, 2012; and this Court having found that this Court may

¹ The Debtors in these chapter 11 cases, along with the last four digits of each Debtor’s federal tax identification number, include: Akorn, Inc. (7400); 10 Edison Street LLC (7890); 13 Edison Street LLC (N/A); Advanced Vision Research, Inc. (9046); Akorn (New Jersey), Inc. (1474); Akorn Animal Health, Inc. (6645); Akorn Ophthalmics, Inc. (6266); Akorn Sales, Inc. (7866); Clover Pharmaceuticals Corp. (3735); Covenant Pharma, Inc. (0115); Hi-Tech Pharmacal Co., Inc. (8720); Inspire Pharmaceuticals, Inc. (9022); Oak Pharmaceuticals, Inc. (6647); Olta Pharmaceuticals Corp. (3621); VersaPharm Incorporated (6739); VPI Holdings Corp. (6716); and VPI Holdings Sub, LLC (N/A). The location of the Debtors’ service address is: 1925 W. Field Court, Suite 300, Lake Forest, Illinois 60045.

² Capitalized terms used but not defined herein have the meanings given to such terms in the Application.



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enter a final order consistent with Article III of the United States Constitution; and this Court having found that venue of this proceeding and the Application in this district is proper pursuant to 28 U.S.C. §§ 1408 and 1409; and this Court having found that the relief requested in the Application is in the best interests of the Debtors' estates, their creditors, and other parties-in-interest; and this Court having found that the Debtors' notice of the Application and opportunity for a hearing on the Application were appropriate and no other notice need be provided; and this Court having reviewed the Application and having heard the statements in support of the relief requested therein at a hearing, if any, before this Court (the "Hearing"); and this Court having determined that the legal and factual bases set forth in the Application and at the Hearing establish just cause for the relief granted herein; and upon all of the proceedings had before this Court; and after due deliberation and sufficient cause appearing therefor, it is HEREBY ORDERED THAT:

1. The Application is granted as set forth herein.
2. The Debtors are authorized to retain and employ PJT as their investment banker in these chapter 11 cases pursuant to sections 327 and 328(a) of the Bankruptcy Code, Bankruptcy Rules 2014 and 2016, and Local Rules 2014-1 and 2016-2, effective as of the Petition Date, on the terms and conditions set forth in the Application and the Engagement Letter, attached hereto as **Exhibit 1**, as modified by this Order.

3. Except to the extent set forth herein, the Engagement Letter (together with all annexes thereto), including the Fee Structure, are approved pursuant to sections 327(a) and 328(a) of the Bankruptcy Code, and the Debtors are authorized and directed to perform their payment, reimbursement, contribution, and indemnification obligations and their non-monetary obligations in accordance with the terms and conditions, and at the times specified, in the Engagement Letter. Subject to paragraph 6 of this Order, all compensation and reimbursement of expenses payable

under the Engagement Letter shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to any other standard of review including, but not limited to, that set forth in section 330 of the Bankruptcy Code.

4. The Debtors are authorized to pay PJT's fees and to reimburse PJT for its reasonable costs and expenses as provided in the Engagement Letter, and in particular, all of PJT's fees and expenses in these chapter 11 cases, including the Monthly Fee, the Capital Raising Fee, the Restructuring Fee, and the Transaction Fee, are hereby approved pursuant to section 328(a) of the Bankruptcy Code. For the avoidance of doubt, to the extent not previously paid prior to the Petition Date, PJT shall be paid (a) each Capital Raising Fee for any financing, as to which PJT may be entitled under the Engagement Letter as soon as such financing is approved by this Court (or, if such approval occurred prior to entry of this Order, immediately following entry of this Order) and with respect to amounts available to the Debtors, (b) the Restructuring Fee upon consummation of a Restructuring, and (c) each Transaction Fee upon consummation of the applicable Transaction, in each case subject to subsequent Court approval of any such Capital Raising Fee, Restructuring Fee, or Transaction Fee pursuant to PJT's fee application.

5. PJT shall apply to this Court for allowance of compensation for services rendered and reimbursement of expenses incurred in accordance with the applicable provisions of the Bankruptcy Code, the Bankruptcy Rules, the Local Rules, and any applicable orders of this Court; *provided* that the requirements of the Bankruptcy Code, the Bankruptcy Rules, and Local Rule 2016-2 are hereby modified such that PJT's restructuring professionals shall only be required to maintain summary records in half-hour increments describing each professional's tasks on a daily basis in support of each fee application, including reasonably detailed descriptions of those services and the individuals who provided those services, and will present such records to

this Court; *provided, further*, that PJT's professionals shall not be required to keep time records on a project category basis or provide or conform to any schedules of hourly rates.

6. PJT shall be compensated in accordance with the terms of the Engagement Letter and, in particular, all of PJT's fees and expenses in these chapter 11 cases are hereby approved pursuant to section 328(a) of the Bankruptcy Code. Notwithstanding anything to the contrary herein, the fees and expenses payable to PJT pursuant to the Engagement Letter shall be subject to review only pursuant to the standards set forth in section 328(a) of the Bankruptcy Code and shall not be subject to the standard of review set forth in section 330 of the Bankruptcy Code, except by the United States Trustee for the District of Delaware (the "U.S. Trustee"). This Order and the record relating to the Court's consideration of the Application shall not prejudice or otherwise affect the rights of the U.S. Trustee to challenge the reasonableness of PJT's compensation and expense reimbursements under sections 330 and 331 of the Bankruptcy Code; *provided, that* reasonableness for this purpose shall include, among other things, an evaluation by comparing the fees payable in these cases to the fees paid to other investment banking firms for comparable services in other chapter 11 cases and outside of chapter 11 cases, and shall not be evaluated primarily on the basis of time committed or the length of these cases. Accordingly, nothing in this Order or the record shall constitute a finding of fact or conclusion of law binding on the U.S. Trustee, on appeal or otherwise, with respect to the reasonableness of PJT's compensation.

7. The indemnification, contribution, and reimbursement provisions set forth in the Indemnification Agreement are approved, subject, during the pendency of the Debtors' chapter 11 cases, to the following:

- a. subject to the provisions of subparagraphs (b) and (d), *infra*, the Debtors are authorized to indemnify, and to provide contribution and reimbursement to, and shall indemnify, and provide contribution and reimbursement to, any Indemnified Party (as defined in the Indemnification Agreement) in

accordance with the Indemnification Agreement for any claim arising from, related to, or in connection with the services provided for in the Engagement Letter;

- b. notwithstanding subparagraph (a) above or any provisions of the Indemnification Agreement to the contrary, the Debtors shall have no obligation to indemnify PJT or provide contribution or reimbursement to PJT (i) for any claim or expense that is judicially determined (the determination having become final and no longer subject to appeal) to have arisen from PJT's bad faith, self-dealing, breach of fiduciary duty (if any), willful misconduct, or gross negligence; (ii) for a contractual dispute in which the Debtors allege the breach of PJT's contractual obligations if this Court determines that indemnification, contribution, or reimbursement would not be permissible pursuant to *In re United Artists Theatre Company*, 315 F.3d 217 (3d Cir. 2003); or (iii) for any claim or expense that is settled prior to a judicial determination as to the exclusions set forth in clauses (i) and (ii) above, but determined by this Court, after notice and a hearing pursuant to subparagraph (c), *infra*, to be a claim or expense for which PJT should not receive indemnity, contribution or reimbursement under the terms of the Indemnification Agreement, as modified by this Order;
- c. if, before the earlier of (i) the entry of an order confirming a chapter 11 plan in these chapter 11 cases (that order having become a final order no longer subject to appeal), and (ii) the entry of an order closing these chapter 11 cases, PJT believes that it is entitled to the payment of any amounts by the Debtors on account of the Debtors' indemnification, contribution, and/or reimbursement obligations under the Indemnification Agreement, as modified by this Order, including without limitation the advancement of defense costs, PJT must file an application therefor in this Court, and the Debtors may not pay any such amounts to PJT before the entry of an order by this Court approving the payment. This subparagraph (c) is intended only to specify the period of time during which this Court shall have jurisdiction over any request by PJT for indemnification, contribution, or reimbursement and is not a provision limiting the duration of the Debtors' obligation to indemnify, or make contribution or reimbursement to, PJT; and
- d. notwithstanding any provision in the Engagement Letter to the contrary, (i) subject to the terms of, and the Debtors' indemnification, reimbursement and contribution obligations under, the Indemnification Agreement, there shall be no limitation of PJT's liability in connection with its engagement and (ii) the cap on PJT's contribution liability set forth in the Indemnification Agreement shall not be applicable.

8. PJT is authorized to apply any prepetition advance or retainer to satisfy any unbilled or other remaining prepetition fees and expenses PJT becomes aware of during its ordinary course

billing review and reconciliation. Any remaining retainer held by PJT shall be held by PJT as security throughout these chapter 11 cases until PJT's fees and expenses are fully paid. At the conclusion of PJT's engagement by the Debtors, if the amount of any prepetition advance or retainer held by PJT is in excess of the amount of PJT's outstanding and estimated fees, expenses, and costs, PJT will pay to the Debtors the amount by which any advance payment or retainer exceeds such fees, expenses, and costs, in each case in accordance with the Engagement Letter.

9. Notwithstanding anything to the contrary in the Application, PJT shall: (a) to the extent that PJT uses the services of independent contractors or subcontractors (collectively, the "Contractors") in these cases, pass through the cost of such Contractors to the Debtors at the same rate that PJT pays the Contractors; and (b) seek reimbursement for actual costs only. The Debtors will ensure that the Contractors are subject to the same conflicts checks as required for PJT, and file with this Court such disclosures required by Bankruptcy Rule 2014.

10. Notwithstanding anything to the contrary in the Application and/or Engagement Letter, PJT shall have whatever duties, fiduciary or otherwise, that are imposed upon it by applicable law.

11. To the extent there is any inconsistency between the terms of the Engagement Letter, the Application, and this Order, the terms of this Order shall govern.

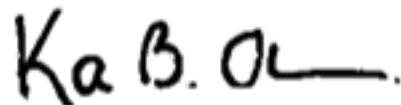
12. Notice of the Application as provided therein shall be deemed good and sufficient notice of such Application and the requirements of Bankruptcy Rule 6004(a) and the Local Rules are satisfied by such notice.

13. Notwithstanding Bankruptcy Rule 6004(h), the terms and conditions of this Order are immediately effective and enforceable upon its entry.

14. The Debtors are authorized to take all actions necessary to effectuate the relief granted in this Order in accordance with the Application.

15. Notwithstanding any term in the Engagement Letter to the contrary, this Court retains exclusive jurisdiction with respect to all matters arising from or related to the implementation, interpretation, and enforcement of this Order.

Dated: June 23rd, 2020
Wilmington, Delaware

A handwritten signature in black ink, appearing to read "Ka B. Owens", with a stylized flourish at the end.

KAREN B. OWENS
UNITED STATES BANKRUPTCY JUDGE

Exhibit 1

Engagement Letter

PJT Partners



March 20, 2020

Patrick Nash
Partner
Kirkland & Ellis LLP
300 North LaSalle
Chicago, IL 60654

Dear Mr. Nash:

This letter confirms the understanding and agreement (the **"Agreement"**) between PJT Partners LP (**"PJT Partners"**) and Kirkland & Ellis LLP (**"Counsel"**), as counsel to Akorn, Inc. (together with any subsidiaries, the **"Company"**), regarding the retention of PJT Partners by Counsel for the benefit of the Company effective as of January 28, 2019 (the **"Effective Date"**) as its investment banker for the purposes set forth herein. Reference is hereby made to that certain letter agreement between PJT Partners, the Company and Kirkland & Ellis LLP, dated January 27, 2020 (the **"Prior Agreement"**). The Prior Agreement is hereby amended, replaced and superseded in its entirety by this Agreement.

Under this Agreement, PJT Partners will provide investment banking services to Counsel to assist in Counsel providing legal advice to the Company in connection with certain liabilities of the Company and a potential Restructuring (as defined below), and analyzing the Company's current capital structure, responding to inquiries from the Company's debtholders and providing certain related services as described herein. As used herein, the term **"Restructuring"** shall mean, collectively, but, in each case, excluding any Transaction (as defined below), (i) any restructuring, reorganization (whether or not pursuant to chapter 11 of the United States Bankruptcy Code (**"Chapter 11"**)) and/or recapitalization of the Company affecting a substantial portion of its existing or potential debt obligations or other claims against the Company, including, without limitation, senior debt, junior debt, trade claims, general unsecured claims, and preferred stock (collectively, the **"Obligations"**), and/or (ii) an in-court sale or other in-court disposition of any material assets and/or equity of the Company (including, for the avoidance of doubt, any transfer of assets to or for the benefit of the Company's creditors pursuant to a credit bid in accordance with section 363 of Title 11 of the United States Code or a chapter 11 plan (collectively, a **"Transfer to Existing Creditors"**)), and/or (iii) any repurchase, refinancing, extension or prepayment by the Company of a substantial portion of the Obligations (other than any trade claims in the ordinary course of business). The investment banking services to be rendered by PJT Partners will, if appropriate and if requested by Counsel, include the following:

- (a) assist in the evaluation of the Company's businesses and prospects;
- (b) assist in the development of the Company's long-term business plan and related financial projections;
- (c) assist in the development of financial data and presentations to the Company's Board of Directors, various creditors and other third parties;
- (d) analyze the Company's financial liquidity and evaluate alternatives to improve such liquidity;
- (e) analyze various restructuring scenarios and the potential impact of these scenarios on the recoveries of those stakeholders impacted by any proposed Restructuring;
- (f) provide strategic advice with regard to restructuring or refinancing the Company's Obligations;
- (g) evaluate the Company's debt capacity and alternative capital structures;
- (h) participate in negotiations among the Company and its creditors, suppliers, lessors and other interested parties;
- (i) value securities offered by the Company in connection with a Restructuring;

Akorn, Inc.
March 20, 2020

- (j) advise the Company and negotiate with lenders with respect to potential waivers or amendments of various credit facilities including, to the extent determined by the Company to be necessary, any proposed Amendment; as used in this Agreement, the term **"Amendment"** shall mean any amendment, modification, and/or waiver in respect of any of the Company's existing obligations under that certain Loan Agreement dated as of April 17, 2014, as amended prior to the Effective Date (the **"Loan Agreement"**);
- (k) assist in arranging financing for the Company, as requested;
- (l) assist the Company in preparing marketing materials in conjunction with a possible Transaction (as defined below);
- (m) assist the Company in identifying potential buyers or parties in interest to a Transaction and assist in the due diligence process;
- (n) assist and advise the Company concerning the terms, conditions and impact of any proposed Transaction;
- (o) provide expert witness testimony concerning any of the subjects encompassed by the other investment banking services; and
- (p) provide such other advisory services as requested and mutually agreed.

Notwithstanding anything contained in this Agreement to the contrary, PJT Partners shall have no responsibility for designing or implementing any initiatives to improve the Company's operations, profitability, cash management or liquidity. PJT Partners makes no representations or warranties about the Company's ability to (i) successfully improve its operations, (ii) maintain or secure sufficient liquidity to operate its business, or (iii) successfully complete an Amendment, Restructuring or Transaction, to the extent necessary. PJT Partners is retained under this Agreement solely to provide advice as expressly set forth herein, and is not being retained to provide "crisis management" or any legal, tax, accounting or actuarial advice. It is understood and agreed that nothing contained herein shall constitute a commitment, express or implied, on the part of PJT Partners to underwrite, purchase or place any securities, in a financing or otherwise.

It is agreed that the Company will pay the following fees to PJT Partners for its investment banking services. For the avoidance of doubt, Counsel shall have no obligations or liabilities under this Agreement, including any obligation to pay any amounts to PJT Partners or to reimburse any expenses or indemnify PJT Partners:

- (i) a monthly advisory fee (the **"Monthly Fee"**) in the amount of \$150,000 per month, payable by the Company in cash as follows: (a) to the extent that the Effective Date occurs after the 1st day of the month, for the period beginning on the Effective Date through the end of the first calendar month (the **"Stub Period"**), a pro-rated monthly fee in advance upon execution of this Agreement; (b) for the first full calendar month following the Stub Period, if applicable, or the Effective Date if there is no Stub Period, in advance upon execution of this Agreement; and (c) for each month thereafter, in advance on the first day of each month; provided that in the event of a termination of this Agreement, the Company will pay a pro rata portion of the Monthly Fee, calculated for the period beginning on the first day of the month such termination occurs and ending on the effective date of such termination. Fifty percent (50%) of all Monthly Fees paid to PJT Partners after the sixth Monthly Fee has been paid (i.e., after \$900,000 has been paid) shall be credited against any Restructuring Fee (as defined below) payable hereunder;
- (ii) a capital raising fee (the **"Capital Raising Fee"**) for any financing arranged by PJT Partners (a "Capital Raise") at the Company's request, earned and payable upon the closing of such financing; provided, however, if Capital Raises (and use of proceeds thereof) are the only Restructuring (as defined below) undertaken and no other activity or event that would constitute a Restructuring occurs, PJT Partners, in its sole discretion, may choose to be paid either the Capital Raising Fees in respect of any and all Capital Raises or the Restructuring Fee (as defined below), but not both. If access to the financing is limited by orders of the bankruptcy court, a

Akorn, Inc.
March 20, 2020

proportionate fee shall be payable with respect to each available commitment (irrespective of availability blocks, borrowing base, or other similar restrictions). The Capital Raising Fee will be calculated as 1.0% of the total issuance size for senior debt financing, 3.0% of the total issuance size for junior debt financing, and 5.0% of the issuance amount for equity financing; provided that, to the extent that any portion of a Capital Raising Fee would otherwise be payable hereunder in respect of a refinancing of the Company's existing asset-based lending facility by virtue of an existing lender under such facility as of the Effective Date extending or providing the financing, the Capital Raising Fee will be reduced by the amount of the Capital Raising Fee corresponding to such lender's refinancing commitment;

- (iii) to the extent an Amendment is determined to be necessary, an amendment fee (the "**Amendment Fee**") in an amount to be agreed upon among the parties, earned and payable upon the closing of such Amendment;
- (iv) an additional fee (the "**Restructuring Fee**") equal to \$10,000,000. Except as otherwise provided herein, a Restructuring shall be deemed to have been consummated upon (a) in the case of an out-of-court Restructuring, the closing of the Restructuring, including, to the extent applicable the binding execution and effectiveness of all necessary waivers, consents, amendments or restructuring agreements between the Company and its creditors involving (1) the compromise of the face amount of any of the Obligations, (2) the conversion of all or part of such Obligations into alternative securities, including equity, or (3) any other Restructuring; or (b) in the case of an in-court Restructuring, the consummation of a Chapter 11 plan or any other Restructuring (including, without limitation, a Transfer to Existing Creditors) pursuant to an order of the Bankruptcy Court or other applicable court. The Restructuring Fee will be:
 - (I) earned on the earliest of:
 - (w) consummation of the Restructuring,
 - (x) in the event the Company attempts to implement the Restructuring in whole or in part by means of an exchange offer, then upon commencement of the exchange offer,
 - (y) in the event that the Company attempts to implement the Restructuring by means of a pre-negotiated Chapter 11 plan, the receipt of sufficient commitments, agreements or other expressions of intention to accept such plan that the Company elects to file a Chapter 11 case and therein represent to the Bankruptcy Court hearing such case that the Company will seek to confirm a plan based on the pre-negotiated plan, and
 - (z) in the event that the Company solicits acceptances for a prepackaged Chapter 11 plan to implement the Restructuring, then on the date established as the voting deadline for such acceptances or rejections, provided that at least one class of creditors impaired by such plan has accepted such plan, and
 - (II) payable, in immediately available funds, on the earliest of:
 - (A) consummation of the Restructuring,
 - (B) consummation of the exchange offer, and
 - (C) the first business day immediately following (I) in the case of clause "(y)" above, 50% upon the receipt of such commitments, agreements or expressions of intention to accept the pre-negotiated Chapter 11 plan, and 50% upon emergence, and (II) in the case of clause "(z)" above, 50% upon the deadline for delivery of acceptances or rejections of a prepackaged Chapter 11 plan,

Akorn, Inc.
March 20, 2020

provided that at least one class of creditors impaired by such plan has accepted such plan, and 50% upon emergence.

Notwithstanding the foregoing, (a) a Restructuring specifically shall be deemed to exclude any assumption at face value of Obligations in connection with the sale or disposition of any subsidiaries, joint ventures, assets or lines of business of the Company and (b) the restructured Obligations shall exclude any Obligations in respect of which a Restructuring Fee has previously been paid.

- (v) to the extent requested by PJT Partners and approved by the Company in its sole discretion, a discretionary fee in an amount to be determined by the Company in its sole discretion based upon the performance of PJT Partners during the engagement hereunder, earned and payable, in cash; and
- (vi) an additional fee (a **"Transaction Fee"**), payable upon at the closing of any Transaction in cash and directly out of the gross proceeds of such Transaction, equal to 2% of the Transaction Value (defined below); provided, that, (a) upon consummation of a Transaction in which all or substantially all of the assets of the Company are sold, PJT Partners, in its sole discretion, shall be entitled to either a Transaction Fee in respect of such Transaction or the Restructuring Fee, but not both, and (b) in the event of a Transfer to Existing Creditors, PJT Partners shall be entitled to only the Restructuring Fee and not a Transaction Fee.

As used in this Agreement, (1) **"Transaction"** shall mean any potential sale, merger or other disposition (whether in-court or out-of-court) of all or a portion of the Company's shares, assets and/or businesses, and (2) **"Transaction Value"** shall mean the gross value of all cash, securities and other properties paid or payable, directly or indirectly, in one transaction or in a series or combination of transactions, in connection with the Transaction or a transaction related thereto (including, without limitation, amounts paid (A) pursuant to covenants not to compete or similar arrangements and (B) to holders of any warrants, stock purchase rights, convertible securities or similar rights and to holders of any options or stock appreciation rights, whether or not vested). Transaction Value shall also include (i) (I) in the case of the sale, exchange or purchase of the Company's equity securities the principal amount of any indebtedness for borrowed money, preferred stock obligations, any pension liabilities, capital leases, guarantees and any other long-term liabilities as set forth on the most recent consolidated balance sheet of the Company prior to the consummation of such sale, exchange or purchase or (II) in the case of a sale or disposition of assets by the Company the principal amount of any indebtedness for borrowed money, preferred stock obligations, any pension liabilities, capital leases, guarantees and any other long-term liabilities indirectly or directly assumed or acquired, and (ii) any indebtedness for borrowed money, preferred stock obligations, any pension liabilities, capital leases, guarantees and any other long-term liabilities that are or otherwise repaid or retired, in connection with or in anticipation of the Transaction. Transaction Value shall also include the aggregate amount of any extraordinary dividend or distribution made by the Company from the date hereof until the closing of the Transaction. Transaction Value shall include all amounts paid into escrow and all contingent payments payable in connection with the Transaction, with fees on amounts paid into escrow to be payable upon the establishment of such escrow and fees on contingent payments to be payable when such contingent payments are made. If the Transaction Value to be paid is computed in any foreign currency, the value of such foreign currency shall, for purposes hereof, be converted into U.S. dollars at the prevailing exchange rate on the date or dates on which such Transaction Value is paid.

In this Agreement, the value of any securities (whether debt or equity) or other property paid or payable as part of the Transaction Value shall be determined as follows: (1) the value of securities that are freely tradable in an established public market will be determined on the basis of the last market closing price prior to the public announcement of the Transaction; and (2) the

Akorn, Inc.
March 20, 2020

value of securities that are not freely tradable or have no established public market or, if the Transaction Value utilized consists of property other than securities, the value of such other property shall be the fair market value thereof as mutually agreed by the parties hereto; and

- (vii) reimbursement of all reasonable, documented out-of-pocket expenses incurred during this engagement, including, but not limited to, travel and lodging, direct identifiable data processing, document production, publishing services and communication charges, courier services, working meals, reasonable and documented fees and expenses of PJT Partners' outside counsel (which fees and expenses of outside counsel shall not exceed \$50,000 in the aggregate without the Company's prior written consent, not to be unreasonably withheld) and other necessary and reasonable expenditures, payable upon rendition of invoices setting forth in reasonable detail the nature and amount of such expenses. In connection therewith the Company shall pay PJT Partners upon execution of this Agreement and maintain thereafter a \$35,000 expense advance for which PJT Partners shall account upon termination of this Agreement.

PJT Partners will direct all communications and notices regarding financial matters, including billing, to the contacts designated by the Company on Schedule I (the "**Company Financial Matters Contacts**"). Please note that any invoices in excess of \$500,000 will be provided to the Company Financial Matters Contacts in an encrypted form or other secure manner and subject to an authentication process. Payments to PJT Partners shall be made pursuant to the wire instructions set forth on Schedule II, and any changes to the PJT Partners' wire instructions will be provided by the PJT Partners financial matters contacts, as set forth on Schedule I (the "**PJT Partners Financial Matters Contacts**"), to the Company Financial Matters Contacts in an encrypted form or other secure manner and subject to an authentication process. Any notices and communications regarding financial matters, including billing, from the Company shall be directed to one of the PJT Partners Financial Matters Contacts.

All amounts herein are stated in U.S. dollars and all payments under this Agreement shall be paid in immediately available funds in U.S. dollars, free and clear of any tax, assessment or other governmental charge (with appropriate gross-up for withholding taxes). If any amount to be paid is computed in any foreign currency, the value of such foreign currency shall, for purposes hereof, be converted in U.S. dollars at the prevailing exchange rate on the date such amount is paid.

In the event that the Company is or becomes a debtor under Chapter 11, the Company shall use its commercially reasonable efforts to promptly apply to the bankruptcy court having jurisdiction over the Chapter 11 case or cases (the "**Bankruptcy Court**") for the approval pursuant to sections 327 and 328 of the Bankruptcy Code of (A) this Agreement, including the attached indemnification agreement, and (B) PJT Partners' retention by the Company under the terms of this Agreement and subject to the standard of review provided in section 328(a) of the Bankruptcy Code and not subject to any other standard of review under section 330 of the Bankruptcy Code. The Company shall supply PJT Partners with a draft of such application and any proposed order authorizing PJT Partners' retention sufficiently in advance of the filing of such application and proposed order to enable PJT Partners and its counsel to review and comment thereon.

PJT Partners shall have no obligation to provide any services under this Agreement in the event that the Company becomes a debtor under Chapter 11 unless PJT Partners' retention under the terms of this Agreement is approved under section 328(a) of the Bankruptcy Code by a final order entered by the Bankruptcy Court within 45 days of the filing of the retention application that is no longer subject to appeal, rehearing, reconsideration or petition for certiorari, and which order is acceptable to PJT Partners in all respects.

The Company will use its commercially reasonable efforts to ensure that PJT Partners' post-petition compensation, expense reimbursements and payment received pursuant to the provisions of the indemnification agreement attached hereto as Attachment A shall be entitled to priority as expenses of administration under sections 503(b)(1)(A) and 507(a)(2) of the Bankruptcy Code, and (except for any Amendment Fee, Capital Raising Fee, Transaction Fee or Restructuring Fee) shall be entitled to the benefits of any "carve-outs" for professional fees and expenses in effect pursuant to one or more cash collateral and/or financing orders entered by the Bankruptcy

Akorn, Inc.
March 20, 2020

Court. Following entry of an order authorizing PJT Partners' retention, the Company will reasonably assist PJT Partners in preparing, filing and serving fee statements, interim fee applications, and a final fee application. The Company will support PJT Partners' fee applications that are consistent with this Agreement in papers filed with the Bankruptcy Court and during any Bankruptcy Court hearing. The Company will pay promptly the fees and expenses of PJT Partners, in each case, which are both (i) owed pursuant to this Agreement and (ii) approved by the Bankruptcy Court in accordance with the orders of the Bankruptcy Court.

PJT Partners acknowledges that in the event that the Bankruptcy Court approves its retention by the Company, PJT Partners' fees and expenses shall be subject to the jurisdiction and approval of the Bankruptcy Court under section 328(a) of the Bankruptcy Code and any applicable fee and expense guideline orders; provided, however, that PJT Partners shall not be required to maintain time records and, provided further, that PJT Partners shall not be required to maintain receipts for expenses in amounts less than \$75. In the event that the Company becomes a debtor under Chapter 11 and PJT Partners' engagement hereunder is approved by the Bankruptcy Court, the Company shall pay all fees and expenses of PJT Partners hereunder as promptly as practicable in accordance with the terms hereof and any retention order. Prior to commencing a Chapter 11 case, the Company shall pay all invoiced amounts to PJT Partners in immediately available funds by wire transfer.

With respect to PJT Partners' retention under sections 327 and 328 of the Bankruptcy Code, the Company acknowledges and agrees that PJT Partners' restructuring expertise as well as its capital markets knowledge, financing skills and mergers and acquisitions capabilities, some or all of which may be required by the Company during the term of PJT Partners' engagement hereunder, were important factors in determining the amount of the various fees set forth herein, and that the ultimate benefit to the Company of PJT Partners' services hereunder could not be measured merely by reference to the number of hours to be expended by PJT Partners' professionals in the performance of such services. The Company also acknowledges and agrees that the various fees set forth herein have been agreed upon by the parties in anticipation that a substantial commitment of professional time and effort will be required of PJT Partners and its professionals hereunder over the life of the engagement, and in light of the fact that such commitment may foreclose other opportunities for PJT Partners and that the actual time and commitment required of PJT Partners and its professionals to perform its services hereunder may vary substantially from week to week or month to month, creating "peak load" issues for the firm. In addition, given the numerous issues which PJT Partners may be required to address in the performance of its services hereunder, PJT Partners' commitment to the variable level of time and effort necessary to address all such issues as they arise, and the market prices for PJT Partners' services for engagements of this nature in an out-of-court context, the Company agrees that the fee arrangements hereunder (including the Monthly Fee, Capital Raising Fee, Amendment Fee, Transaction Fee and Restructuring Fee) are reasonable under the standards set forth in 11 U.S.C. Section 328(a).

The advisory services and compensation arrangement set forth in this Agreement do not encompass other investment banking services or transactions that may be undertaken by PJT Partners at the request of Counsel or the Company, including the arranging of debt or equity capital (except as provided above), issuing fairness opinions or any other specific services not set forth in this Agreement. The terms and conditions of any such investment banking services, including compensation arrangements, would be set forth in a separate written agreement between PJT Partners and the appropriate party.

PJT Partners acknowledges that it has agreed to maintain the confidentiality of certain information provided to it by or at the request of the Company under and pursuant to the terms of that certain confidentiality agreement dated as of January 15, 2019 (as extended by the immediately following sentence, the "**Confidentiality Agreement**"). Notwithstanding anything contained in the Confidentiality Agreement to the contrary, PJT Partners' obligations under the Confidentiality Agreement shall continue until the first anniversary of the termination of this Agreement. For the avoidance of doubt, PJT Partners may provide nonpublic Information (as defined below) to prospective transaction parties as contemplated by this Agreement, subject to such parties executing appropriate confidentiality agreements with the Company.

Akorn, Inc.

March 20, 2020

The Company will furnish or cause to be furnished to PJT Partners such information regarding the Company as PJT Partners reasonably requests and believes appropriate to its assignment (all such information so furnished being the “**Information**”). The Company further agrees that it will provide PJT Partners with reasonable access to the Company and its directors, officers, employees, accountants, counsel and other advisers. To the best of the Company’s knowledge, the Information will be true and correct in all material respects and will not contain any material misstatement of fact or omit to state any material fact necessary to make the statements contained therein not misleading. During the term of the engagement, the Company shall inform PJT Partners promptly upon becoming aware of any material developments relating to the Company which the Company reasonably expects may impact on the proposed transaction or if the Company becomes aware that any Information provided to PJT Partners is, or has become, untrue, unfair, inaccurate or misleading in any material respect. Furthermore, the Company warrants and undertakes to PJT Partners that, in respect of all Information supplied by the Company, the Company has not obtained any such Information other than by lawful means and, to the best of its knowledge, disclosure to PJT Partners will not breach any agreement or duty of confidentiality owed to third parties. The Company recognizes and confirms that PJT Partners (a) will use and rely primarily on the Information and on information available from generally recognized public sources in performing the services contemplated by this Agreement without having independently verified the same, (b) does not assume responsibility for the accuracy or completeness of the Information and such other information, (c) is entitled to rely upon the Information without independent verification, and (d) will not make an appraisal of any assets in connection with its assignment.

In the event that the Information belonging to the Company is stored electronically on PJT Partners’ computer systems, PJT Partners shall not be liable for any damages resulting from unauthorized access, misuse or alteration of such information by persons not acting on its behalf, provided that PJT Partners exercises the same degree of care in protecting the confidentiality of, and in preventing unauthorized access to, the Company’s information that it exercises with regard to its own most sensitive proprietary information; provided further, that the foregoing shall not apply to any such damages resulting from the gross negligence or willful misconduct of PJT Partners or its affiliates.

PJT Partners acknowledges and agrees that the work product produced by PJT Partners pursuant to this Agreement is for the purpose of facilitating the rendering by Counsel of legal advice to the Company and constitutes attorney work product, and that any communication to Counsel, including, without limitation, any correspondence, analyses, reports and related materials that PJT Partners prepares, constitutes confidential and privileged communications and PJT Partners will not disclose the same or any of the Information to any other person except as requested by Counsel.

Except as required by applicable law, any advice to be provided by PJT Partners under this Agreement shall not be disclosed publicly or made available to third parties (other than the Company’s other professional advisors or, if appropriate in the Company’s or Counsel’s judgment, in any filings in a Chapter 11 proceeding) without the prior written consent of PJT Partners, not to be unreasonably withheld. In the event disclosure is required by subpoena or court order, the Company will provide PJT Partners with reasonable advance notice to the extent practicable and permit PJT Partners to comment on the form and content of the disclosure. All services, advice and information and reports provided by PJT Partners to Counsel in connection with this assignment shall be for the sole benefit of the Counsel and shall not be relied upon by any other person.

The Company acknowledges and agrees that PJT Partners will provide its investment banking services exclusively to Counsel on behalf of the members of the Board of Directors and senior management of the Company and not to the Company’s shareholders or other constituencies. The Board of Directors and senior management will make all decisions for the Company regarding whether and how the Company will pursue any Amendment, Transaction or Restructuring and on what terms and by what process. In so doing, the Board of Directors and senior management will also obtain the advice of the Company’s legal, tax and other business advisors and consider such other factors which they consider appropriate before exercising their independent business judgment in respect of any Amendment, Transaction or Restructuring. The Company and Counsel further acknowledge and agree that PJT Partners has been retained to act solely as investment banker to Counsel on behalf of the Company and does not in such capacity act as a fiduciary for the Company or any other person. PJT Partners shall act as an independent

Akorn, Inc.

March 20, 2020

contractor and any duties of PJT Partners arising out of its engagement pursuant to this Agreement shall be owed solely to the Company. Following the public announcement of any Amendment, Transaction or Restructuring, PJT Partners may, (i) at its own expense and with the consent of the Company, place announcements or advertisements in financial newspapers and journals or (ii) place tombstones on its marketing materials, including its website, describing PJT Partners' services hereunder and the Company agrees that PJT Partners may use the Company's logo in any such advertisements or tombstones. In any press release or other public announcement made by the Company regarding any Amendment, Transaction or Restructuring that references the services hereunder, the Company shall refer to PJT Partners LP or such entity as PJT Partners may direct.

In consideration of PJT Partners' agreement to provide investment banking services to Counsel in connection with this Agreement, it is agreed that the Company will indemnify PJT Partners and its agents, representatives, members and employees pursuant to the indemnification agreement attached to this Agreement as Attachment A. The indemnification agreement is an integral part of this Agreement and the terms thereof are incorporated by reference herein. PJT Partners acknowledges Counsel has no obligation to indemnify PJT Partners.

PJT Partners' engagement hereunder may be terminated upon 15 days' written notice without cause by either Counsel or PJT Partners; termination for cause by either party will occur forthwith. Notwithstanding the foregoing, (a) the provisions relating to the payment of fees and expenses accrued through the date of termination, the status of PJT Partners as an independent contractor, the limitation as to whom PJT Partners shall owe any duties, and any other provision of this Agreement that, by its terms, survives termination, will survive any such termination, (b) any such termination shall not affect the Company's obligations under the indemnification agreement attached as Attachment A or PJT Partners' obligations under the Confidentiality Agreement. Without limiting the foregoing, PJT Partners shall be entitled to the Amendment Fee, Capital Raising Fee, Restructuring Fee and/or Transaction Fee, as applicable, in the event that, at any time prior to the expiration of 12 months following the termination of this Agreement either (i) an Amendment, a Capital Raise, a Restructuring and/or a Transaction, as applicable, is consummated or (ii) a definitive agreement with respect to an Amendment, a Capital Raise, a Restructuring and/or a Transaction, respectively, is executed and an Amendment, a Capital Raise, a Restructuring and/or a Transaction, respectively, is thereafter consummated; provided, however, that if notwithstanding the foregoing, the Company terminates the engagement hereunder for Cause or PJT Partners terminates the engagement hereunder without cause, PJT Partners shall not be entitled to the Amendment Fee, Capital Raising Fee, Restructuring Fee or Transaction Fee pursuant to the foregoing sentence. As used in the prior sentence, "Cause" shall mean the gross negligence, bad faith or willful misconduct of PJT Partners in performing the services that are the subject of this Agreement.

The Company represents that neither it nor any of its subsidiaries, nor, to the knowledge of the Company, any of their respective directors or officers, is an individual or entity ("**Person**") that is, or is owned or controlled by a Person that is: (i) a Person with whom dealings are prohibited or restricted under U.S. economic sanctions (including those administered or enforced by the U.S. Department of Treasury's Office of Foreign Assets Control and the U.S. Department of State) or under sanctions imposed by the United Nations Security Council, Canada, the European Union, or member countries of the European Union; (ii) a Person that is the subject to anti-money laundering prohibitions, restrictions, or sanctions specifically imposed on such Person by the United States, Canada, the European Union, member countries of the European Union, or any other relevant jurisdiction; or (iii) to the knowledge of the Company, not in compliance in all material respects with all applicable anti-money laundering laws and Sanctions laws.

The Company should be aware that PJT Partners and/or its affiliates may be providing or may in the future provide financial or other services to other parties with conflicting interests. Consistent with PJT Partners' policy to hold in confidence the affairs of its clients, PJT Partners will not use confidential information obtained from the Company, Counsel or other representatives of the Company except in connection with PJT Partners' services to, and PJT Partners' relationship with, the Company, nor will PJT Partners use on the Company's behalf or have any obligation to disclose or otherwise have any liability with respect to any confidential information obtained from any other client. Notwithstanding anything to the contrary provided elsewhere herein but subject to the confidentiality

Akorn, Inc.
March 20, 2020

obligations under the Confidentiality Agreement, the Company expressly acknowledges and agrees that none of the provisions of this Agreement shall in any way restrict PJT Partners from being engaged or mandated by any third party, or otherwise participating or assisting with any transaction involving any other party, other than a transaction that is the subject of this Agreement prior to the termination of this Agreement and, if the Company terminates PJT Partners for Cause (as defined above) or PJT Partners terminates the engagement hereunder without cause, for twelve (12) months thereafter.

Akorn, Inc. hereby represents and warrants that (a) it is duly authorized to execute and deliver this Agreement for and on behalf of each of its subsidiaries listed on Schedule III hereto and (b) the execution and delivery of this Agreement and the performance of the obligations of Akorn, Inc. and each of its subsidiaries listed on Schedule III hereto under this Agreement has been duly authorized and this Agreement constitutes a valid and legal agreement binding on each such party and enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

This Agreement (including the indemnification agreement attached hereto as Attachment A) embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof. If any provision of this Agreement is determined to be invalid or unenforceable in any respect, such determination will not affect or impair such provision or the remaining provisions of this Agreement in any other respect, which will remain in full force and effect. No waiver, amendment or other modification of this Agreement shall be effective unless in writing and signed by each party to be bound thereby. This Agreement and any dispute or claim that may arise out of this Agreement shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed in that state.

Each of the Company and Counsel hereby agrees that any action or proceeding brought by the Company and/or Counsel against PJT Partners based hereon or arising out of PJT Partners' engagement hereunder, shall be brought and maintained by the Company and/or Counsel exclusively in the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York. If the Company commences a Chapter 11 case, all legal proceedings pertaining to the engagement after such case is commenced may be brought only in the bankruptcy court handling such case. Each of the Company and Counsel irrevocably submits to the jurisdiction of the courts of the State of New York located in the City and County of New York and the United States District Court for the Southern District of New York and appellate courts from any thereof for the purpose of any action or proceeding based hereon or arising out of PJT Partners' engagement hereunder and irrevocably agrees to be bound by any judgment rendered thereby in connection with such action or proceedings. Each of the Company and Counsel hereby irrevocably waives, to the fullest extent permitted by law, any objection it may have or hereafter may have to the laying of venue of any such action or proceeding brought in any such court referred to above and any claim that such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim the same.

THE PARTIES HERETO IRREVOCABLY AGREE TO WAIVE TRIAL BY JURY IN ANY SUIT, ACTION, PROCEEDING, CLAIM OR COUNTERCLAIM RELATED TO OR ARISING OUT OF THIS AGREEMENT BROUGHT BY OR ON BEHALF OF ANY PARTY.

Notices. Any notices required or permitted to be given hereunder by either party hereto to the other will be given in writing (i) by personal delivery, email or facsimile transmission, (ii) by nationally-recognized overnight delivery company or (iii) by prepaid first class, registered or certified mail, postage prepaid, in each case addressed to the other party hereto as set forth on Schedule I (or to such other address as the other party hereto may request in writing by notice given pursuant to this section). Notices will be deemed received on the earliest of: (a) if personally delivered, emailed or sent via facsimile, the same day; (b) if sent by overnight delivery company, on the second working day after the day it was sent; or (c) if sent by mail, when actually received.

Akorn, Inc.

March 20, 2020

This Agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. A facsimile of a signed copy of this Agreement or other copy made by reliable mechanical means may be relied upon as an original.

[SIGNATURE PAGE FOLLOWS]

Please confirm that the foregoing correctly sets forth our agreement by signing and returning to PJT Partners the duplicate copy of this Agreement and the indemnification agreement attached hereto as Attachment A.

Very truly yours,

PJT PARTNERS LP

By: PJT Management, LLC, its general partner

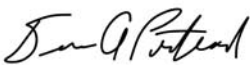
By: 

Name: Mark Buschmann

Title: Partner

Accepted and Agreed to as
of the date first written above:

Akorn, Inc.
(on behalf of itself and its subsidiaries listed on Schedule III hereto)

By: 
Name: Duane A. Portwood
Title: EVP & CFO

Kirkland & Ellis LLP

By: _____
Name: Patrick Nash
Title: Partner

Very truly yours,

PJT PARTNERS LP

By: PJT Management, LLC, its general partner

By: _____
Name: Mark Buschmann
Title: Partner

Accepted and Agreed to as
of the date first written above:

Akorn, Inc.
(on behalf of itself and its subsidiaries listed on Schedule III hereto)

By: _____
Name: Duane [REDACTED]
Title: EVP & CFO

Kirkland & Ellis LLP

By: _____
Name: Patrick Nash
Title: Partner

Akorn, Inc.
March 20, 2020

ATTACHMENT A

March 20, 2020

PJT Partners LP
280 Park Avenue
New York, NY 10017

INDEMNIFICATION AGREEMENT

Ladies and Gentlemen:

This letter will confirm that PJT Partners LP ("**PJT Partners**") has been engaged by Kirkland & Ellis LLP ("**Counsel**") as counsel to Akorn, Inc. (the "**Company**") in connection with the matters referred to in the letter of agreement, dated as of March 20, 2020, by and between PJT Partners, Counsel and the Company (the "**Engagement Letter**"). In connection with the engagement of PJT Partners to advise and assist Counsel on behalf of the Company as described in the attached Engagement Letter (the "**Engagement**"), in the event that PJT Partners becomes involved in any capacity in any claim, suit, action, proceeding, investigation or inquiry (including, without limitation, any shareholder or derivative action or arbitration proceeding) (collectively, a "**Proceeding**") in connection with any matter in any way relating to or referred to in the Engagement Letter or arising out of the matters contemplated by the Engagement Letter, including, without limitation, related services and activities prior to the date of the Engagement Letter, the Company agrees to indemnify, defend and hold PJT Partners and its affiliates, and their respective current and former directors, officers, agents, employees, attorneys and other representatives and the successors and assigns of all of the foregoing persons (each an "**Indemnified Party**") harmless to the fullest extent permitted by law, from and against any losses, claims, damages, fines, penalties, liabilities and reasonable, documented out-of-pocket expenses ("**Losses**"), whether they be joint or several, in connection with any matter in any way relating to or referred to in the Engagement Letter or arising out of the matters contemplated by the Engagement Letter, including, without limitation, related services and activities prior to the date of the Engagement Letter, except to the extent that it shall be determined by a court of competent jurisdiction in a judgment that has become final in that it is no longer subject to appeal or other review that such Losses resulted primarily from the gross negligence, bad faith or willful misconduct of such Indemnified Party. In the event that any Indemnified Party becomes involved in any capacity in any Proceeding (regardless of whether or not such or any Indemnified Party is a party to or the subject of such Proceeding) in connection with any matter in any way relating to or referred to in the Engagement Letter or arising out of the matters contemplated by the Engagement Letter (including, without limitation, in enforcing the Engagement Letter), the Company will reimburse such Indemnified Party for its reasonable, documented outside legal and other out-of-pocket expenses (including the cost of any investigation and preparation) as such expenses are incurred by such Indemnified Party in connection therewith; provided, to the extent it shall be determined by a court of competent jurisdiction in a judgment that has become final in that it is no longer subject to appeal or other review that such Losses resulted primarily from the gross negligence, bad faith or willful misconduct of such Indemnified Party, such Indemnified Party shall return to the Company such reimbursed amounts. The Company also agrees to cooperate with any Indemnified Party and to give, and so far as it is able to procure the giving of, all such information and render all such assistance to such Indemnified Party as such Indemnified Party may reasonably request in connection with any Proceeding and not to take any action which might reasonably be expected to prejudice the position of any Indemnified Party in relation to any Proceeding without the consent of PJT Partners (such consent not to be unreasonably withheld),

Akorn, Inc.

March 20, 2020

unless such action is required by law or legal process. In the event that any Indemnified Party is requested or authorized by the Company or required by government regulation, subpoena or other legal process to produce documents, or to make its current or former personnel available as witnesses at deposition or trial, arising as a result of or in connection with the matters referred to in the Engagement Letter, the Company will, so long as PJT Partners is not a party to the Proceeding in which the information is sought, pay PJT Partners the fees and expenses of its counsel incurred in responding to such a request.

If such indemnification is for any reason not available or insufficient to hold an Indemnified Party harmless, the Company agrees to contribute to the Losses involved in the proportion appropriate to reflect the relative benefits received or sought to be received by the Company and its security holders and affiliates and other constituencies, on the one hand, and the Indemnified Party, on the other hand, in connection with the matters contemplated by the Engagement Letter, or, if such allocation is determined by a court or arbitral tribunal to be unavailable, in such proportion as is appropriate to reflect other equitable considerations such as the relative fault of the Company, on the one hand, and of the Indemnified Parties, on the other hand; provided, however, that, to the extent permitted by applicable law, the Indemnified Parties shall not be responsible for amounts which in the aggregate are in excess of the amount of all fees actually received by PJT Partners from the Company in connection with the Engagement. The Company agrees that for the purposes of this paragraph the relative benefits received, or sought to be received, by the Company and its security holders and affiliates and other constituencies, on the one hand, and the Indemnified Party, on the other hand, in connection with the matters contemplated by the Engagement Letter shall be deemed to be in the same proportion that the total value received or paid or contemplated to be received or paid by the Company and its security holders and affiliates and other constituencies, as the case may be, as a result of or in connection with the matters (whether or not consummated) for which PJT Partners has been retained to perform financial services bears to the fees paid to PJT Partners under the Engagement Letter; provided, however, to the extent permitted by applicable law, the Indemnified Parties, taken together, shall not be liable for Losses which in the aggregate are in excess of the amount of fees actually received by PJT Partners pursuant to the Engagement Letter (exclusive of amounts paid for reimbursement of expenses under the Engagement Letter).

The Company agrees that no Indemnified Party shall have any liability to the Company or any person asserting claims on behalf of or in right of the Company in connection with any matter in any way relating to or referred to in the Engagement Letter or arising out of the matters contemplated by the Engagement Letter, including, without limitation, related services and activities prior to the date of the Engagement Letter, except to the extent that it shall be determined by a court of competent jurisdiction in a judgment that has become final in that it is no longer subject to appeal or other review that any Losses incurred by the Company resulted primarily from the gross negligence, bad faith or willful misconduct of such Indemnified Party.

If any Proceeding shall be brought, threatened or asserted against an Indemnified Party in respect of which indemnity or contribution may be sought against the Company, PJT Partners shall promptly notify the Company in writing; provided that failure to so notify the Company shall not relieve the Company from any liability which the Company may have on account of this indemnity or otherwise, except to the extent the Company shall have been actually materially prejudiced by such failure. The Company, upon the written request of such Indemnified Party, shall or, upon written notice to such Indemnified Party, may elect to, assume the defense of such Proceeding, at the Company's own expense, with counsel reasonably satisfactory to such Indemnified Party. Such Indemnified Party shall have the right to employ separate counsel in any such Proceeding and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of such Indemnified Party unless (a) the Company has agreed in writing to pay such fees and expenses, (b) the Company has failed to assume the defense, pursue the defense reasonably diligently or to employ counsel in a timely manner, (c) outside counsel to such Indemnified Party has advised such Indemnified Party that in such Proceeding there is an actual or potential conflict of interest or a conflict on any material issue between the Company's position and the position of such Indemnified Party or (d) the named parties to any such Proceeding (including any impleaded parties) include such Indemnified Party and the Company, and outside counsel to such Indemnified Party has advised such Indemnified

Akorn, Inc.

March 20, 2020

Party that there may be one or more legal defenses available to such Indemnified Party which are different from or in addition to those available to the Company.

The Company agrees that, without PJT Partners' prior written consent (which shall not be unreasonably withheld, conditioned or delayed), it will not settle, compromise or consent to the entry of any judgment in any pending or threatened Proceeding in respect of which indemnification or contribution may be sought hereunder (whether or not an Indemnified Party is an actual or potential party to such Proceeding), or otherwise directly or indirectly facilitate or participate in any such settlement, compromise or consent by any director, officer or affiliate of the Company, unless such settlement, compromise or consent (a) includes an explicit and unconditional release from the settling, compromising or consenting party of each Indemnified Party from all liability arising out of such Proceeding and (b) does not contain any factual or legal admission by or with respect to any Indemnified Party or any adverse statement with respect to the character, professionalism, due care, loyalty, expertise or reputation of any Indemnified Party or any action or inaction by each Indemnified Party. No Indemnified Party seeking indemnification, reimbursement or contribution under this letter agreement will, without the Company's prior written consent (which shall not be unreasonably withheld, conditioned or delayed), settle, compromise, consent to the entry of any judgment or otherwise seek to terminate any action, claim, suit, investigation or proceeding in respect of which indemnification, reimbursement or contribution may be sought.

The Company's reimbursement, indemnification and contribution obligations under this letter agreement shall be in addition to any liability which the Company may otherwise have at law or in equity, shall not be limited by any rights PJT Partners or any other Indemnified Party may otherwise have and shall be binding upon and inure to the benefit of any successors, assigns, heirs and personal representatives of the Company, PJT Partners and any other Indemnified Party.

This letter agreement embodies the entire agreement and understanding between the parties hereto and supersedes all prior agreements and understandings relating to the subject matter hereof. If any provision of this letter agreement is determined to be invalid or unenforceable in any respect, such determination will not affect or impair such provision or the remaining provisions of this letter agreement in any other respect, which will remain in full force and effect. No waiver, amendment or other modification of this letter agreement shall be effective unless in writing and signed by each party to be bound thereby.

The Company hereby agrees that any action or proceeding brought by the Company against PJT Partners based hereon or arising out of PJT Partners' engagement hereunder, shall be brought and maintained by the Company exclusively in the courts of the State of New York located in the City and County of New York or in the United States District Court for the Southern District of New York. The Company irrevocably submits to the jurisdiction of the courts of the State of New York located in the City and County of New York and the United States District Court for the Southern District of New York and appellate courts from any thereof for the purpose of any action or proceeding based hereon or arising out of PJT Partners' engagement hereunder and irrevocably agrees to be bound by any judgment rendered thereby in connection with such action or proceedings. The Company hereby irrevocably waives, to the fullest extent permitted by law, any objection it may have or hereafter may have to the laying of venue of any such action or proceeding brought in any such court referred to above and any claim that such action or proceeding has been brought in an inconvenient forum and agrees not to plead or claim the same.

This letter agreement may be executed in one or more counterparts, each of which will be deemed an original and all of which together will constitute one and the same instrument. A facsimile of a signed copy of this letter agreement or other copy made by reliable mechanical means may be relied upon as an original.

[SIGNATURE PAGE FOLLOWS]

Akorn, Inc.

March 20, 2020

The provisions of this agreement shall apply to the Engagement, as well as any additional engagement of PJT Partners by us in connection with the matters which are the subject of the Engagement, and any modification of the Engagement or additional engagement and shall remain in full force and effect regardless of any termination or the completion of your services under the Engagement Letter.

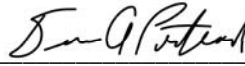
Akorn, Inc. hereby represents and warrants that (a) it is duly authorized to execute and deliver this agreement for and on behalf of each of its subsidiaries listed on Schedule III to the Engagement Letter and (b) the execution and delivery of this agreement and the performance of the obligations of Akorn, Inc. and each of its subsidiaries listed on Schedule III to the Engagement Letter under this agreement has been duly authorized and this agreement constitutes a valid and legal agreement binding on each such party and enforceable in accordance with its terms, subject to applicable bankruptcy, insolvency, reorganization, moratorium or other laws affecting creditors' rights generally and subject to general principles of equity, regardless of whether considered in a proceeding in equity or at law.

This agreement and the Engagement Letter shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts executed in and to be performed in that state.

Very truly yours,

Akorn, Inc.

(on behalf of itself and its subsidiaries listed on
Schedule III to the Engagement Letter)

By: 
Name: Duane A. Portwood
Title: EVP & CFO

Accepted and Agreed to as
of the date first written above:

PJT PARTNERS LP

By: PJT Management, LLC, its general partner

By: 
Name: Mark Buschmann
Title: Partner

Akorn, Inc.
March 20, 2020

Schedule I

Notices

Financial Matters Contacts: All communications and notices related to financial matters, including billing, shall be addressed to the following:

If to PJT Partners:

PJT Partners LP
280 Park Avenue
New York, NY 10017

Attention to either:

- Helen Meates, Chief Financial Officer; htm@pjtpartners.com; 212.364.7807; or
- David Figur, Director of Finance; figur@pjtpartners.com; 212.364.5056

If to the Company:

Akorn, Inc.
1925 West Field Court, Suite 300
Lake Forest, Illinois 60045

Attention:

- Duane Portwood, Chief Financial Officer; duane.portwood@akorn.com; 847-279-6150; or
- Joseph Bonaccorsi, General Counsel; joe.bonaccorsi@akorn.com; 847-279-6104

All other notices, shall be addressed to the following:

If to PJT Partners:

PJT Partners LP
280 Park Avenue
New York, NY 10017
Attention: General Counsel
Email: cuminale@pjtpartners.com
Tel: 212.364.7170

If to the Company:

Akorn, Inc.
1925 West Field Court, Suite 300
Lake Forest, Illinois 60045
Attention: Joseph Bonaccorsi, General Counsel
Email: joe.bonaccorsi@akorn.com
Tel: 847-279-6104

Akorn, Inc.
March 20, 2020

Schedule II

Wire Instructions

Bank Name: First Republic Bank
1230 Avenue of the Americas
New York, NY 10020

Bank Routing Number: 321 081 669
(ABA)

For the benefit of:
(Account Name/Title) PJT Partners LP

Account Number: 80008146369

Swift Code: FRBBUS6S

Akorn, Inc.

March 20, 2020

Schedule III

Advanced Vision Research, Inc.

Akorn (New Jersey), Inc.

Akorn Animal Health, Inc.

Akorn Ophthalmics, Inc.

Akorn Sales, Inc.

Inspire Pharmaceuticals, Inc.

Oak Pharmaceuticals, Inc.

Hi-Tech Pharmacal Co., Inc.

10 Edison Street LLC

13 Edison Street LLC

VPI Holdings Corp.

VPI Holdings Sub, LLC.

VersaPharm Incorporated

Covenant Pharma, Inc.

Olta Pharmaceuticals Corp.

Clover Pharmaceuticals Corp.