

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION**

**In re Akorn, Inc. Data Integrity
Securities Litigation**

**STIPULATION AND AGREEMENT
OF SETTLEMENT**

Civil No. 1:18-cv-01713

Hon. Matthew F. Kennelly

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STIPULATION AND AGREEMENT OF SETTLEMENT

This Stipulation and Agreement of Settlement, dated as of August 9, 2019, is entered into between (a) Lead Plaintiffs Gabelli & Co. Investment Advisors, Inc. and Gabelli Funds, LLC, individually and on behalf of the Settlement Class; and (b) Defendants Akorn, Inc., Rajat Rai (“Rai”), Duane Portwood (“Portwood”), Alan Weinstein (“Weinstein”), Brian Tambi (“Tambi”) and Ronald Johnson (“Johnson”), and embodies the terms and conditions of the Settling Parties’ settlement of the claims against the Defendants in the Action.¹ Subject to the approval of the Court and the terms and conditions expressly provided herein, this Stipulation is intended to fully, finally and forever compromise, settle, release, resolve and dismiss with prejudice all claims asserted in the Action against the Defendants.

WHEREAS,

A. The Action was commenced in the Court on March 8, 2018, by plaintiff Joshi Living Trust through the filing of a class action complaint alleging violations by Akorn, Rai, Portwood and Randall Pollard of Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder, captioned *Joshi Living Trust v. Akorn, Inc., et al.*, No. 1:18-cv-01713-MFK (N.D. Ill.);

B. By order dated May 31, 2018, the Court appointed Gabelli Funds as lead plaintiffs in this Action, Entwistle & Cappucci LLP as lead counsel for the proposed class and Bernstein Litowitz Berger & Grossmann LLP as local liaison counsel for the proposed class;

¹ All words or terms used herein that are capitalized and not otherwise defined shall have the meanings ascribed to those words or terms as set forth in Section I hereof, entitled “Definitions”.

C. On September 5, 2018, Lead Plaintiffs filed an amended consolidated complaint, naming as defendants the Defendants, Mark Silverberg (“Silverberg”), John Kapoor (“Kapoor”), Kenneth Abramowitz (“Abramowitz”), Adrienne Graves (“Graves”), Steven Meyer (“Meyer”) and Terry Rappuhn (“Rappuhn”), and asserting (i) on behalf of persons who purchased or otherwise acquired the common stock of Akorn during the period from November 3, 2016, through April 20, 2018, inclusive, claims against Defendants and Silverberg under Sections 10(b) and 20(a) of the Exchange Act, and (ii) on behalf of Akorn shareholders of record as of June 9, 2017, claims against Akorn, Rai, Kapoor, Weinstein, Abramowitz, Graves, Johnson, Meyer, Rappuhn and Tambi, under Sections 14(a) and 20(a) of the Exchange Act (the “Proxy Claims”);

D. On October 29, 2018, the parties filed a stipulation and joint motion providing for the dismissal of certain claims and defendants;

E. On October 30, 2018, the Court granted the parties’ motion, dismissing all of the Proxy Claims without prejudice, dismissing defendants Kapoor, Abramowitz, Graves, Meyer and Rappuhn without prejudice and dismissing defendant Silverberg with prejudice;

F. On December 19, 2018, the Defendants filed an answer to the amended consolidated complaint;

G. On February 21, 2019, plaintiff Johnny Wickstrom filed a class action complaint in the United States District Court for the Northern District of Illinois (the “Northern District of Illinois”), alleging violations of Sections 10(b) and 20(a) of the Exchange Act during a class period from August 1, 2018 through January 8, 2019, inclusive, and naming as defendants

Akorn, Rai and Portwood. The case was captioned *Wickstrom v. Akorn, Inc., et al.*, No. 1:19-cv-01299 (the “*Wickstrom* Action”);

H. On March 27, 2019, the Court made a finding that the *Wickstrom* Action was related to this Action and ordered the *Wickstrom* Action to be transferred to the Court pursuant to Local Rule 40.4 of the Local Rules of the Northern District of Illinois (each a “Local Rule”);

I. On April 22, 2019, plaintiff Vicente Juan filed a class action complaint in the Northern District of Illinois, alleging violations of Sections 10(b) and 20(a) of the Exchange Act during a class period from May 2, 2018 through January 8, 2019, inclusive, and naming as defendants Akorn, Rai and Portwood. The case was captioned *Juan v. Akorn, Inc., et al.*, No. 1:19-cv-02720 (the “*Juan* Action”);

J. On April 22, 2019, Lead Plaintiffs, by and through their attorneys, filed the Second Amended Complaint, alleging claims on behalf of persons or entities who purchased or otherwise acquired the common stock of Akorn during the Class Period against Defendants pursuant to Sections 10(b) and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder;

K. Also on April 22, 2019, Gabelli Funds and plaintiff Vicente Juan filed motions in the *Wickstrom* Action to be appointed as lead plaintiffs in that action;

L. On April 23, 2019, the Court found that the *Juan* Action was related to this Action and ordered the *Juan* Action to be transferred to the Court pursuant to Local Rule 40.4;

M. On April 29, 2019, plaintiff Vicente Juan filed a notice of withdrawal of his motion for lead plaintiff status in the *Wickstrom* Action;

N. On May 3, 2019, the Litigation Parties and their counsel commenced mediation before former United States District Judge Layn R. Phillips (“Judge Phillips”);

O. On May 9, 2019, the Court consolidated both the *Wickstrom* Action and the *Juan* Action into this Action for all purposes;

P. On May 31, 2019, plaintiffs Twin Master Fund, Ltd., Twin Opportunities Fund, LP and Twin Securities, Inc. filed a complaint against Defendants in the Northern District of Illinois, alleging violations of Sections 10(b), 18 and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder, as well as one count of common law fraud (the “*Twin Funds* Action”);

Q. On June 11, 2019, the Court found that the *Twin Funds* Action was related to this Action and ordered the *Twin Funds* Action to be transferred to the Court pursuant to Local Rule 40.4;

R. On July 5, 2019, Lead Plaintiffs filed a motion in this Action seeking certification of a proposed class of all persons or entities that purchased or otherwise acquired Akorn’s common stock during the Class Period and were damaged thereby;

S. On July 11, 2019, plaintiffs Manikay Master Fund, LP and Manikay Merger Fund, LP filed a complaint against Defendants in the Northern District of Illinois, alleging violations of Sections 10(b), 18 and 20(a) of the Exchange Act and Rule 10b-5 promulgated thereunder, as well as one count of common law fraud (the “*Manikay Funds* Action”);

T. On July 25, 2019, after extensive arm’s-length negotiations facilitated by Judge Phillips, acting as mediator, the Litigation Parties reached an agreement in principle as to

the economic elements of a settlement and agreed to settle this Action and all issues in dispute therein on the terms set forth in this Stipulation;

U. On July 30, 2019, in connection with the agreement in principle reached between them, the Litigation Parties jointly moved the Court to enter the Stay Order;

V. Also on July 30, 2019, the Court found that the *Manikay Funds* Action was related to this Action and ordered the *Manikay Funds* Action to be transferred to the Court pursuant to Local Rule 40.4;

W. Also on July 30, 2019, the Court entered the Stay Order through at least August 26, 2019;

X. Based upon their investigation and prosecution of this case and review of materials and presentations regarding Akorn's financial condition and ability to pay, Lead Plaintiffs and Lead Counsel have concluded that the terms and conditions of this Stipulation are fair, reasonable and adequate to Plaintiffs and in their best interests. Based upon Lead Plaintiffs' direct oversight of the prosecution of this matter and with the advice of their counsel, Lead Plaintiffs, individually and on behalf of the Settlement Class, have agreed to settle and release all claims raised in the Action against Defendants pursuant to the terms and provisions of this Stipulation, after considering, among other things: (a) the substantial financial benefit that Plaintiffs will receive under the proposed Settlement; (b) Akorn's ability to pay and financial condition—including risks attendant to the renegotiation of Akorn's outstanding debt and other ongoing litigation; and (c) the significant risks and costs of continued litigation and trial against Defendants;

Y. Defendants have denied and continue to deny all allegations of wrongdoing, fault, liability or damage to Plaintiffs; deny that they are or have engaged in any wrongdoing or violation of law; deny that they improperly or misleadingly disclosed (or improperly failed to disclose) the status of Akorn's compliance with FDA rules and regulations concerning cGMP; and maintain that they acted properly at all times, including complying with all legal duties and public disclosure obligations. Defendants believe that further conduct of this Action could be protracted and expensive, and that it is desirable that this Action be fully and finally settled in the manner and upon the terms and conditions set forth in this Stipulation to limit further expense, inconvenience and distraction, to dispose of the burden of protracted litigation, and to permit the operation of Akorn's business without further distraction and diversion of Akorn's executives and other personnel with respect to the matters at issue in this Action. Defendants have also taken into account the uncertainty and risks inherent in any litigation. Defendants state that they are entering into this Settlement solely in order to eliminate the burden, expense, uncertainty and risk of further litigation, and to avoid the business disruptions associated therewith;

Z. This Stipulation, whether or not consummated, together with any proceedings related to any settlement, or any terms of any settlement, whether or not consummated, shall in no event be construed as or deemed to be evidence supporting, or an admission or concession on the part of any Defendant with respect to any claim or of any fault or liability or wrongdoing or damage whatsoever, or any infirmity in any of the defenses that Defendants have or could have asserted;

AA. Each of the Litigation Parties recognizes and acknowledges, however, that the Action has been prosecuted by Lead Plaintiffs in good faith and defended by Defendants in good faith, and that the Action is being voluntarily settled by the Litigation Parties with the advice of counsel; and

BB. This Stipulation (together with the exhibits hereto) reflects the final and binding agreement between the Settling Parties, subject to approval by the Court, and constitutes a compromise of all Settled Claims between the Settling Parties.

NOW, THEREFORE, it is hereby **STIPULATED AND AGREED**, by and among Lead Plaintiffs (individually and on behalf of the Settlement Class) and Defendants, by and through their respective undersigned attorneys and subject to the approval of the Court pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, that, in consideration of the benefits flowing to the Settling Parties hereto from the Settlement, that all Settled Claims as against all Released Persons shall be compromised, settled, released and dismissed fully, finally and with prejudice, upon and subject to the terms and conditions set forth below:

I. DEFINITIONS

1. As used in this Stipulation and any exhibits attached hereto and made a part hereof, the following capitalized terms shall have the following meanings:

1.1. “Action” means the consolidated securities class action filed in the Northern District of Illinois, Eastern Division, captioned *In re Akorn, Inc. Data Integrity Securities Litigation*, No. 1:18-cv-01713-MFK, and includes all actions consolidated therein,

including, but not limited to, *Wickstrom v. Akorn, Inc. et al.*, No. 19-cv-01299 (N.D. Ill.), and *Juan v. Akorn, Inc. et al.*, No. 19-cv-02720 (N.D. Ill.).

1.2. “Additional Derivative Actions” means any action brought after the date hereof by an Akorn shareholder asserting derivatively on behalf of Akorn any claims arising out of, relating to or in connection with the allegations, facts, matters, events, transactions, acts, occurrences, statements, representations, misrepresentations or omissions or failures to act that were alleged or could have been alleged in the Derivative Actions.

1.3. “Additional Securities Actions” means any action brought after the date hereof by a purchaser of Akorn’s common stock asserting either individually or on behalf of a class of purchasers any claims arising out of, relating to or in connection with (i) the allegations, facts, matters, events, transactions, acts, occurrences, statements, representations, misrepresentations, or omissions or failures to act that were alleged or could have been alleged in the Action; or (ii) any disclosures, non-disclosures or public statements made in connection with any of the foregoing.

1.4. “Akorn” means Akorn, Inc. and, where applicable, any successor entity.

1.5. “Akorn Compensation Plan” means any plan implemented and maintained by Akorn for the compensation of its employees, management or directors, including, but not limited to, the Akorn, Inc. 2014 Stock Option Plan and the Akorn, Inc. 2017 Omnibus Incentive Compensation Plan.

1.6. “Applicable Insurance Policies” means the following insurance policies of

Akorn: US00075683DO17A, issued by XL Specialty Insurance Company; 0307-5817, issued by Allied World National Assurance Company; and DOX10007587102, issued by Endurance American Insurance Company.

1.7. “Applicable Procedures” means, with respect to any transfer or exchange of or for the beneficial interest(s) in any Settlement Shares or Settlement CVRs, the rules and procedures of the DTC, the Escrow Agent, the Transfer Agent or the Trustee and/or other applicable rules and procedures (including the rules and procedures of the Escrow Agent, the Transfer Agent and the Trustee with respect to certificated or book-entry securities) that apply to such transfer or exchange.

1.8. “Authorized Claimant” means a Settlement Class Member who timely submits a valid Proof of Claim Form to the Claims Administrator.

1.9. “Available Settlement Shares” means such Settlement Shares that are available to be issued and delivered in full compliance with applicable laws and in accordance with paragraphs 12 through 15 herein, which shall be, in all cases, (i) duly and validly issued, fully paid, non-assessable and free from all liens and encumbrances; (ii) exempt from the registration requirements of the Securities Act pursuant to Section 3(a)(10); (iii) registered on a Form 8-A or other Exchange Act registration statement that has been filed with the Commission and has become effective in accordance with the provisions of the Exchange Act; (iv) free from and not underlying or otherwise encumbered by any unexpired options or other equity-based awards previously granted pursuant to any Akorn Compensation Plan or reserved for issuance thereunder; and (v) approved for listing on The NASDAQ Global Select Market (or any such other stock

exchange or market on which the shares of Akorn's common stock shall then be authorized for listing) such that the Available Settlement Shares shall constitute "covered securities" within the meaning of Section 18(b) of the Securities Act.

1.10. "Cash Settlement Amount" means the D&O Coverage Amount remaining as of the date hereof, less any erosion (not to exceed the Reimbursement Cap) due to Reimbursable Defense Costs.

1.11. "Cash Escrow Fund" means the Initial Cash Escrow Amount, together with the excess, if any, of the Reimbursement Cap over the Reimbursable Defense Costs deposited into the Escrow Account pursuant to paragraph 10 herein following the date on which the Order and Final Judgment becomes Final.

1.12. "Change in Control" means the acquisition of ownership, directly or indirectly, beneficially or of record, by any person or entity (or group of persons or entities) of equity interests representing more than fifty percent (50%) of the aggregate ordinary voting power represented by the issued and outstanding equity interest of Akorn.

1.13. "Claimant" means a person or entity that submits a Proof of Claim Form to the Claims Administrator seeking to share in the proceeds of the Settlement of this Action.

1.14. "Claims" means any and all manner of claims, debts, demands, controversies, obligations, losses, costs, interest, penalties, fees, expenses, rights, duties, judgments, sums of money, suits, contracts, agreements, promises, damages, actions, causes of action and liabilities, of every nature and description in law or equity (including, but not limited to, any claims for damages, whether compensatory, special, incidental,

consequential, punitive, exemplary or otherwise, injunctive relief, declaratory relief, rescission or rescissionary damages, interest, attorneys' fees, expert or consulting fees, costs, or expenses), accrued or unaccrued, known or unknown, arising under federal, state, common, administrative, or foreign law, or any other law, rule, or regulation.

1.15. "Claims Administrator" means the entity or firm, to be retained by Lead Counsel, subject to Court approval, which shall send the Notice to the Settlement Class Members, arrange for publication of the Publication Notice, process Proof of Claim Forms received by Claimants, administer the disbursements from and the distribution of the Net Settlement Fund to Authorized Claimants, and perform such other administrative functions required under this Stipulation.

1.16. "Class Distribution Order" means an order of the Court approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted herein and approving any Notice and Administration Expenses not previously applied for, including the fees and expenses of the Claims Administrator, and, if the Effective Date has occurred, directing distribution of the Net Settlement Fund to Authorized Claimants.

1.17. "Class Period" means, for the purposes of this Settlement only, the period from November 3, 2016 through January 8, 2019, inclusive.

1.18. "Class Settlement Shares" means the Settlement Shares, less any Settlement Shares awarded to Plaintiffs' Counsel pursuant to paragraphs 20 through 25 herein, as attorneys' fees or to pay for Litigation Expenses.

1.19. “Commission” means the United States Securities and Exchange Commission.

1.20. “Court” means the United States District Court for the Northern District of Illinois, Eastern Division, the Honorable Matthew F. Kennelly presiding.

1.21. “CVR Agreement” means the Contingent Value Rights Agreement that shall be executed by Akorn and the Trustee on the date on which the Order and Final Judgment becomes Final in or substantially in the form attached hereto as Exhibit C with such modifications as may be necessary to reflect the operational and administrative agency requirements and other reasonable requests of the Trustee, in consideration of the release and final disposition of the Settled Claims by the Releasing Persons.

1.22. “D&O Coverage Amount” means the total coverage amount available pursuant to the Applicable Insurance Policies, which amount is equal to Thirty Million Dollars (\$30,000,000.00).

1.23. “D&O Insurers” means XL Specialty Insurance Company, Allied World National Assurance Company and Endurance American Insurance Company, the insurance companies that issued or are otherwise responsible for the insurance policies that comprise the Applicable Insurance Policies.

1.24. “Defendants” means Akorn, Rai, Portwood, Weinstein, Johnson and Tambi.

1.25. “Defendants’ Counsel” means the law firms of Cravath, Swaine & Moore LLP and Figliulo & Silverman, P.C.

1.26. “Derivative Actions” means the actions captioned *Kogut v. Akorn, Inc. et*

al., No. 646,174 (La. 19th Dist. Ct.) and *In re Akorn, Inc. S'holder Deriv. Litig.*, No. 18-cv-7374 (N.D. Ill.).

1.27. “DTC” means the Depository Trust Company, a New York corporation.

1.28. “Effective Date” means the first date by which all the events and conditions specified in paragraph 47 herein have been met and have occurred.

1.29. “Escrow Account” means the escrow account, to be established by Lead Counsel at a federally-insured banking institution approved by Defendants and to be administered by the Escrow Agent, into which the Settlement Consideration shall be deposited and held in escrow in accordance with the terms hereof. The Cash Escrow Fund held in the Escrow Account shall be held in an interest-bearing account. With the sole exception of depositing the Settlement Consideration into the Escrow Account as provided for in paragraphs 9 through 17 herein, Defendants shall have no responsibility or liability relating to the Escrow Account or the Settlement Fund maintained in the Escrow Account including, without limitation, responsibility or liability related to any interest (of any kind and at any time), fees, Taxes and Tax Expenses, investment decisions, maintenance, supervision and distributions of any portions of the Settlement Consideration. Lead Counsel’s failure to establish the Escrow Account shall not impair the enforceability of the Settlement.

1.30. “Escrow Agent” means such party as may be chosen by Akorn, in consultation with Lead Counsel, to act as escrow agent hereunder.

1.31. “Escrow Agreement” means the escrow agreement between (i) Akorn;

(ii) Lead Counsel, on behalf of Lead Plaintiffs and the Settlement Class, and (iii) the Escrow Agent. The Escrow Agreement shall provide that the delivery of the Settlement Consideration into the Escrow Account shall satisfy all of Defendant's payment and delivery obligations hereunder and thereunder, and that Defendants and Defendants' Counsel shall have neither authority over nor responsibility or liability of any kind for the Escrow Account or the treatment or disposition of the Settlement Fund therein.

1.32. "Exchange Act" means the Securities Exchange Act of 1934, as amended, codified at 15 U.S.C. § 78a *et seq.*

1.33. "Final," with respect to the Order and Final Judgment, means: (i) if no appeal is filed, the expiration of the time for filing or noticing any appeal from the Court's entry of the Order and Final Judgment in or substantially in the form of Exhibit B to this Stipulation, *i.e.*, thirty (30) days after entry of the Order and Final Judgment; or (ii) if there is an appeal, the date of final dismissal of any appeal from the Order and Final Judgment, or the final dismissal of any proceeding on certiorari to review the Order and Final Judgment; or (iii) the date of final affirmance on an appeal, if any, of the Order and Final Judgment, the expiration of the time to file a petition for a writ of certiorari, or the denial of a writ of certiorari to review the Order and Final Judgment, or, if certiorari is granted, the date of final affirmance of the Order and Final Judgment following review pursuant to such grant. Any proceeding or order, or any appeal or petition for a writ of certiorari pertaining solely to any plan of allocation and/or application for attorneys' fees, costs or expenses, shall not in any way delay or preclude the Order and Final Judgment from

becoming Final.

1.34. “Individual Defendants” means Rai, Portwood, Weinstein, Johnson and Tambi.

1.35. “Initial Cash Escrow Amount” means the D&O Coverage Amount remaining as of the date hereof, less the Reimbursement Cap. Defendants estimate the Initial Cash Escrow Amount to be approximately Twenty-Eight Million Dollars (\$28,000,000.00) as of the date hereof. In the event that the Court declines to extend the Stay Order for the duration of the proceedings related to this Settlement, the Initial Cash Escrow Amount will be approximately Twenty-Seven Million, Five Hundred Thousand Dollars (\$27,500,00.00).

1.36. “Lead Counsel” means the law firm of Entwistle & Cappucci LLP.

1.37. “Lead Plaintiffs” or “Gabelli Funds” mean Gabelli & Co. Investment Advisors, Inc. and Gabelli Funds, LLC.

1.38. “Liaison Counsel” means the law firm of Bernstein Litowitz Berger & Grossmann LLP acting as local counsel.

1.39. “Litigation Expenses” means reasonable and documented out-of-pocket costs and expenses incurred by Lead Plaintiffs and Lead Counsel in connection with commencing, prosecuting and settling the Action (which may include the costs and expenses of Lead Plaintiffs directly related to their representation of the Settlement Class), for which Lead Counsel intends to apply to the Court for reimbursement to be paid from (and out of) the Settlement Fund. Litigation Expenses does not include attorneys’ fees

incurred in connection with commencing, prosecuting and settling the Action.

1.40. “Litigation Parties” means Defendants and Lead Plaintiffs, individually and on behalf of the Settlement Class.

1.41. “Net Settlement Fund” means the Settlement Fund less (i) Court-awarded attorneys’ fees and Litigation Expenses; (ii) Notice and Administration Expenses; (iii) any required payments of Taxes or Tax Expenses; and (iv) any other fees or expenses approved by the Court.

1.42. “Notice” means the Notice of: (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for and Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, which is to be sent to Settlement Class Members in, or substantially in, the form attached hereto as Exhibit A-1 to Exhibit A (the Preliminary Approval Order).

1.43. “Notice and Administration Expenses” means all expenses incurred by either the Claims Administrator or Lead Counsel in connection with the preparation, printing and mailing of the Notice to the Settlement Class, publication of the Publication Notice, and all expenses of settlement administration.

1.44. “Order and Final Judgment” means the Order and Final Judgment Approving Class Action Settlement to be entered by the Court, in or substantially in the form attached hereto as Exhibit B.

1.45. “Opt-Outs” means putative Settlement Class Members who validly exclude themselves from the Settlement Class by timely filing a request for exclusion in accordance with the requirements set forth in the Notice, as contemplated by paragraph 44 herein.

1.46. “Plaintiffs” means Lead Plaintiffs and the Settlement Class.

1.47. “Plaintiffs’ Counsel” means Lead Counsel and all other legal counsel who, at the direction and under the supervision of Lead Counsel, have performed services on behalf of Lead Plaintiffs and/or the Settlement Class in connection with the Action.

1.48. “Plan of Allocation” means the plan and procedures for allocating the Net Settlement Fund to be distributed to Authorized Claimants following approval of the same by the Court.

1.49. “Preliminary Approval Order” means the Order Preliminarily Approving Settlement, Approving Form of Class Notice, and Setting Hearing Date for Final Approval of Settlement, to be entered by the Court, in or substantially in the form attached as Exhibit A to this Stipulation.

1.50. “Proof of Claim Form” or “Proof of Claim Forms” mean the proof of claim and release form in or substantially in the form attached as Exhibit A-2 to Exhibit A, which each Claimant must complete and submit should that Claimant seek to share in a distribution of the Net Settlement Fund.

1.51. “Publication Notice” means the Summary Notice of (I) Pendency of Class Action and Proposed Settlement; (II) Settlement Fairness Hearing; and (III) Motion for an Award of Attorneys’ Fees and Reimbursement of Litigation Expenses, in or substantially

in the form attached as Exhibit A-3 to Exhibit A.

1.52. “Reimbursable Defense Costs” means the defense fees and costs incurred by Defendants, up to and not exceeding the Reimbursement Cap, for which they may seek reimbursement under the Applicable Insurance Policies during the pendency of the Stay Order and proceedings related to this Settlement. Such fees and costs include any defense fees and costs arising from or related to (i) the Action, including fees and costs arising from or related to this Stipulation or the Settlement; (ii) the *Twin Funds* Action; (iii) the *Manikay Funds* Action; (iv) the Derivative Actions; (v) any Additional Derivative Actions; and/or (vi) any Additional Securities Actions. Such fees and costs do not include any defense fees and costs that are covered by insurance policies of Akorn or the Individual Defendants other than the Applicable Insurance Policies.

1.53. “Reimbursement Cap” means (i) Two Million Dollars (\$2,000,000.00) while the Stay Order is in effect; and (ii) Two Million, Five Hundred Thousand Dollars (\$2,500,00.00) if either the Stay Order is lifted while proceedings relating to this Settlement are ongoing or if any Additional Securities Action is filed that is not stayed.

1.54. “Released Persons” refers jointly and severally, individually and collectively to all current or former Defendants in the Action and their current and former directors, officers, shareholders, employees, servants, partners, agents, affiliates, subsidiaries, parents, joint ventures, successors or assigns, and any representatives, trustees, executors, heirs, assigns or transferees, attorneys, accountants, investment bankers, commercial bankers, advisors or insurers of any of the foregoing, as well as all

counsel representing such persons or entities in connection with the Action or any transaction from which the Action arises. As used in this paragraph, “affiliates” means entities controlling, controlled by or under common control with any of the Released Persons. All Released Persons are express third-party beneficiaries of this Stipulation.

1.55. “Releasing Persons” means Lead Plaintiffs, Settlement Class Members and, to the extent acting as such, Lead Plaintiffs’ or any Settlement Class Members’ current and former directors, officers, shareholders, employees, servants, partners, agents, affiliates, subsidiaries, parents, joint ventures, successors or assigns, and any representatives, trustees, executors, heirs, assigns or transferees, attorneys, accountants, investment bankers, commercial bankers, advisors or insurers of any of the foregoing, jointly and severally, individually and collectively, whether in an individual, class, representative, legal, equitable or any other type or in any other capacity. As used in this paragraph, “affiliates” means entities controlling, controlled by or under common control with any Releasing Person.

1.56. “Second Amended Complaint” means the Second Consolidated Amended Class Action Complaint for Violations of the Federal Securities Laws, filed by Lead Plaintiffs in this Action on April 22, 2019.

1.57. “Section 3(a)(10)” means Section 3(a)(10) of the Securities Act, codified at 15 U.S.C. § 77c(a)(10).

1.58. “Securities Act” means the Securities Act of 1933, as amended, codified at 15 U.S.C. § 77a *et seq.*

1.59. “Settled Claims” means any and all Claims (including any Claim that this Stipulation was fraudulently induced), demands, rights, actions or causes of action, whether the Claims are known or Unknown Claims, contingent or absolute, suspected or unsuspected, disclosed or undisclosed, hidden or concealed, matured or unmatured, accrued or unaccrued, that have been, could have been, or in the future can or might be asserted in the Action or in any court, tribunal or proceeding, including, but not limited to, any claims arising under federal or state statutory or common law or relating to alleged fraud, misrepresentation (negligent, reckless, intentional or otherwise, and including misrepresentations through omission(s)), breach of any duty, negligence, violations of federal or state securities laws or any other claim under any theory by or on behalf of the Lead Plaintiffs and/or any and all Settlement Class Members that any of the Releasing Persons ever had, now has, or hereafter can, shall or may have against the Released Persons by reason of, arising out of, relating to or in connection with (i) the allegations, facts, matters, events, transactions, acts, occurrences, statements, representations, misrepresentations, or omissions or failures to act that were alleged or could have been alleged in the Action; (ii) any disclosures, non-disclosures or public statements made in connection with any of the foregoing; and (iii) the Stipulation and the Settlement. For the avoidance of doubt, the Settled Claims do not include (x) any claim by or on behalf of any Defendant against any insurance carrier; (y) any claim to enforce the Settlement, if approved by the Court, or the Stipulation; or (z) any claim of or against any Opt-Outs.

1.60. “Settlement” means the settlement contemplated by this Stipulation.

1.61. “Settlement Consideration” means the sum of: (i) the Cash Settlement Amount; (ii) the Settlement Shares; and (iii) the Settlement CVRs, which aggregate amount shall include all attorneys’ fees and Litigation Expenses, and all costs related to Notice and Administration Expenses.

1.62. “Settlement Class”, “Settlement Class Member” and “Settlement Class Members” mean, for the purposes of this Settlement only, all persons or entities that purchased or otherwise acquired shares of Akorn’s common stock during the Class Period and were damaged thereby, including any and all of their respective successors in interest, predecessors, representatives, trustees, executors, administrators, heirs, assigns or transferees, immediate and remote, and any person or entity acting for or on behalf of, or claiming under, any of them. Excluded from the Settlement Class are (i) Defendants; (ii) any person who was an officer, director or managing agent of Akorn or any of its subsidiaries or affiliates at any point during the Class Period; (iii) members of the immediate family of any of the foregoing individuals (including all trusts and other entities related to, owned or controlled by such individuals); (iv) any affiliate of Akorn; (v) any entity in which any Defendant has or had a controlling interest; (vi) any Opt-Outs; and (vii) the legal representatives, heirs, predecessors, successors or assigns of any of the foregoing.

1.63. “Settlement CVRs” means the contingent value rights to be issued and delivered by Akorn pursuant to the terms of this Stipulation and the CVR Agreement. Such contingent value rights shall be, in all cases, (i) valid and binding obligations of Akorn;

(ii) exempt from the registration requirements of the Securities Act pursuant to Section 3(a)(10); and (iii) registered on a Form 8-A or other Exchange Act registration statement that has been filed with the Commission and has become effective in accordance with the provisions of the Exchange Act.

1.64. “Settlement Hearing” means the hearing held to determine whether the proposed Settlement embodied by this Stipulation is fair, reasonable and adequate to the Settlement Class, and whether the Court should enter the Order and Final Judgment approving the Settlement.

1.65. “Settlement Fund” means the Cash Escrow Fund, together with the Settlement Shares and Settlement CVRs, maintained in the Escrow Account.

1.66. “Settlement Shares” means the shares of Akorn common stock, no par value per share, that either (i) are available, authorized, unissued and uncommitted as of the date hereof (which number is approximately 6,486,375, in total, as of the date hereof) or (ii) are released during the calendar years of 2019 through 2024, inclusive, by the expiration of unexercised out-of-the-money options granted prior to the date hereof pursuant to an Akorn Compensation Plan (which number is approximately 2,249,330, in total, as of the date hereof), in each case to be issued and delivered by Akorn pursuant to the terms of this Stipulation at such time as such Settlement Shares become Available Settlement Shares in accordance with paragraphs 12 through 15 herein in consideration of the release and final disposition of the Settled Claims by the Releasing Persons. The total number of Settlement Shares to be issued pursuant to this Stipulation shall not exceed the available, authorized,

unissued and uncommitted shares as of the date hereof and the shares that are released by the expiration of unexercised out-of-the-money options outstanding as of the date hereof. For the avoidance of doubt, Settlement Shares shall not include shares of Akorn's common stock that are released by any expiration of unexercised out-of-the-money options in connection with a Change in Control.

1.67. "Settling Parties" means Releasing Persons and Released Persons.

1.68. "Stay Order" means any order or orders that, individually or in the aggregate, have the effect of: (i) staying all proceedings in the Action and any action as to which the Court has entered a finding of relatedness pursuant to Local Rule 40.4, including, but not limited to, the *Wickstrom* Action, the *Juan* Action, the *Twin Funds* Action, the *Manikay Funds* Action and any other action; and (ii) transferring to the Court's docket as a related case pursuant to Local Rule 40.4 any Additional Securities Action commenced in or transferred to the Northern District of Illinois, and staying such action.

1.69. "Stipulation" means this Stipulation and Agreement of Settlement, dated as of August 9, 2019, entered into between (a) Lead Plaintiffs, individually and on behalf of the Settlement Class; and (b) Defendants.

1.70. "Taxes" means any taxes (including any estimated taxes, interest or penalties) arising with respect to any income earned by the Settlement Fund, including any taxes or tax detriments to which Defendants may possibly be subject (as computed on a "first-dollar" basis) with respect to (i) any income earned by the Settlement Fund for any period during which the Settlement Fund is not treated, or does not qualify, as a "qualified

settlement fund” for federal or state income tax purposes; and (ii) the payment or reimbursement by the Settlement Fund of any taxes or tax detriments described in clause (i) of this paragraph.

1.71. “Tax Expenses” means expenses and costs incurred in connection with the operation and implementation of paragraph 27 herein (including expenses of tax attorneys and/or accountants and mailing and distribution costs and expenses relating to filing, or failing to file, the returns described in paragraph 27 herein).

1.72. “Termination Notice” means a written notice delivered by either Defendants or Lead Plaintiffs indicating their intent to terminate the Settlement and this Stipulation pursuant to the terms set forth in paragraphs 48 through 52 herein.

1.73. “Transfer Agent” means Akorn’s transfer agent, Computershare Trust Company, N.A., or such other party as is Akorn’s transfer agent from time to time.

1.74. “Trustee” means such party as may be chosen by Akorn, in consultation with Lead Counsel, to act as trustee with respect to the Settlement CVRs.

1.75. “Unknown Claims” means any and all Claims that Defendants, Lead Plaintiffs, for themselves, the Settlement Class, and any or all other persons and entities whose claims are being released, do not know or suspect to exist, which, if known by him, her or it, might affect his, her or its agreement to release the Settling Parties or the Settled Claims, or might affect his, her or its decision to object to or not object to the Settlement. With respect to any and all Settled Claims, the Litigation Parties stipulate and agree that upon the Effective Date, the Plaintiffs and Defendants shall expressly waive, and each

Released Person and Releasing Person shall be deemed to have waived, and by operation of the Order and Final Judgment shall have expressly waived, any and all provisions, rights and benefits of or conferred by any law of any state or territory of the United States or by any law of any other country, or principle of common law, which is or is similar, comparable, or equivalent to Cal. Civ. Code § 1542, which provides:

A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.

Plaintiffs or Defendants may hereafter discover facts in addition to or different from those which he, she or it now knows or believes to be true with respect to the subject matter of the Settled Claims, but hereby stipulates and agrees that Lead Plaintiffs and each other Releasing Person shall be deemed to settle and release, and upon the Effective Date and by operation of the Order and Final Judgment shall have settled and released, fully, finally, and forever, all Settled Claims against Released Persons, known or unknown, suspected or unsuspected, contingent or non-contingent, whether or not concealed or hidden, which now exist, or which heretofore existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct that is negligent or intentional and with or without malice, or a breach of any duty, law, or rule, without regard to the subsequent discovery or existence of such different or additional facts.

II. PRELIMINARY APPROVAL OF SETTLEMENT

2. Promptly after this Stipulation has been fully executed, Lead Counsel and Defendants' Counsel shall jointly apply to the Court for entry of a Preliminary Approval Order, substantially in the form attached hereto as Exhibit A (with annexes). During the period from execution of this Stipulation to the Effective Date, which shall include the period following entry of the Preliminary Approval Order, each of the Settling Parties, and their respective heirs, executors, administrators, successors and assigns and all persons acting in concert with any such person or entity, agree not to institute, maintain or prosecute any or all Settled Claims against any or all of the Settling Parties.

3. Solely for purposes of this Settlement and for no other purpose, the Lead Plaintiffs and Defendants agree to the certification of the Action as a class action. Solely for purposes of this Settlement and for no other purpose, the Defendants agree not to contest: (a) certification of the Action as a class action pursuant to Rules 23(a) and 23(b)(3) of the Federal Rules of Civil Procedure on behalf of the Settlement Class; (b) certification of Lead Plaintiffs as class representatives for the Settlement Class; and (c) appointment of Lead Counsel as class counsel for the Settlement Class pursuant to Rule 23(g) of the Federal Rules of Civil Procedure. In the event that this Settlement is terminated pursuant to the terms of this Stipulation, the certification of the Settlement Class in connection with this Settlement shall become null and void. In such case, the Defendants shall have the right to continue to oppose the certification of a class.

III. RELEASE OF CLAIMS

4. The obligations incurred pursuant to this Stipulation are in consideration of: (i) the agreement by Akorn to use its best efforts to make available to the Settlement Class the Cash Settlement Amount; (ii) the delivery of the Settlement Shares and Settlement CVRs by Akorn for the benefit of the Settlement Class; (iii) the full and final disposition of the Action as against all Defendants; and (iv) the releases provided for herein, including the release and final disposition of any and all Settled Claims.

5. (a) By operation of the Order and Final Judgment, upon the Effective Date, each and all of the Releasing Persons, on behalf of themselves and their respective heirs, executors, administrators, successors and assigns and all persons acting in concert with any such person shall, with respect to each and every Settled Claim, waive, release, forever discharge and dismiss, with prejudice, and agree not to institute, maintain or prosecute any or all Settled Claims against any or all of the Released Persons, and shall be permanently and finally enjoined without the necessity of posting a bond from commencing or prosecuting any actions or other proceedings asserting any of the Settled Claims either directly, indirectly, representatively, derivatively or in any other capacity against any of the Released Persons. This injunction expressly extends to all claims covered by this Stipulation and all Releasing Persons defined herein.

(b) By operation of the Order and Final Judgment, upon the Effective Date, each of the Released Persons, on behalf of themselves and their respective heirs, executors, administrators, successors and assigns and all persons acting in concert with any such person, shall have, fully, finally, and forever released, relinquished, and discharged Lead Plaintiffs, Plaintiffs' Counsel and the Settlement Class (except any Opt-Outs) from all Claims (including Unknown

Claims) arising out of, relating to, or in connection with, the institution, prosecution, assertion, Settlement, or resolution of the Action or the Settled Claims except to enforce the releases and other terms and conditions contained in this Stipulation or any Court order (including, but not limited to, the Order and Final Judgment) entered pursuant thereto.

IV. THE SETTLEMENT CONSIDERATION

6. In consideration of the agreements of Defendants contained herein, Lead Plaintiffs shall cooperate and use their reasonable best efforts to bring about the settlement or dismissal with prejudice of the Derivative Actions as promptly as practicable.

7. In consideration of the settlement of the Settled Claims against the Released Persons and Lead Plaintiffs' obligations as described in paragraph 6 herein, Akorn shall (i) use its best efforts to make available to the Settlement Class the Cash Settlement Amount as set forth in paragraphs 9 through 11 herein, and (ii) deliver the Settlement Shares and the Settlement CVRs for the benefit of the Settlement Class as set forth in paragraphs 12 through 15 and 16 through 17, respectively.

8. Any sums required to be held in escrow hereunder shall be held by the Escrow Agent for the benefit of the Plaintiffs and the Settlement Class until the Effective Date. The Escrow Agent shall not disburse or distribute the Settlement Fund, or any portion thereof, except as provided in this Stipulation, upon order of the Court or with the prior written agreement of Defendants' Counsel and Lead Counsel. Subject to further order and/or direction as may be made by the Court or at the direction of Lead Counsel, the Escrow Agent is authorized to execute such transactions on behalf of the Settlement Class as are consistent with the terms of this

Stipulation. All funds held by the Escrow Agent shall be deemed to be in the custody of the Court, and shall remain subject to the jurisdiction of the Court, until such time as such funds shall be distributed to Authorized Claimants pursuant to this Stipulation and/or further order of the Court, or returned to the entity or entities that deposited the Settlement Consideration into the Escrow Account on Defendants' behalf in the event that this Stipulation is not consummated or is terminated pursuant to Section IX herein.

A. CASH SETTLEMENT AMOUNT

9. Akorn shall use its best efforts to cause the D&O Insurers to pay, via check or wire transfer, the Initial Cash Escrow Amount into the Escrow Account as soon as practicable after the later of (i) entry by the Court of the Preliminary Approval Order and (ii) delivery by Lead Counsel to Defendants' Counsel of an IRS Form W-9 and complete wiring instructions for the Escrow Account. The Escrow Agent shall hold the Initial Cash Escrow Amount as fiduciary for the benefit of the Settlement Class.

10. Akorn shall use its best efforts to cause the D&O Insurers to pay, via check or wire transfer, into the Escrow Account, not later than ten (10) business days after the date on which the Order and Final Judgment becomes Final: (i) the Initial Cash Escrow Amount, to the extent that the D&O Insurers have not already deposited the Initial Cash Escrow Amount as set forth in paragraph 9 herein; and (ii) the excess, if any, of the Reimbursement Cap over Reimbursable Defense Costs as of such date (inclusive of any Reimbursable Defense Costs incurred, but for which Defendants have not yet received an invoice).

11. The payment of the Cash Settlement Amount shall be subject to the following terms and conditions:

(a) Akorn shall use its best efforts to enable pursuit of insurance proceeds by the Settlement Class in the event of non-payment of the Cash Settlement Amount by any D&O Insurer, including, if necessary, assigning to Lead Plaintiffs, on behalf of the Settlement Class, Akorn's rights pursuant to the Applicable Insurance Policies; provided, however, such assignment will not be made if, in Lead Counsel's judgment, it will impair coverage under the Applicable Insurance Policies or applicable law.

(b) Defendants agree to use their reasonable best efforts to avoid any unnecessary depletion of the D&O Coverage Amount while (i) the Stay Order is in effect and (ii) proceedings relating to this Settlement are ongoing.

(c) Defendants agree not to seek reimbursement from the Applicable Insurance Policies for an amount in excess of the Reimbursement Cap while proceedings relating to this Settlement are ongoing. For the avoidance of doubt, other than payment of Reimbursable Defense Costs up to the Reimbursement Cap, Defendants agree not to use the proceeds of the Applicable Insurance Policies for any purpose other than the payment of the Cash Settlement Amount.

(d) The Cash Settlement Amount shall be distributed to Authorized Claimants according to the terms set forth in paragraphs 38 through 40 herein.

(e) For the avoidance of doubt, the Cash Settlement Amount shall be funded solely from the proceeds of the Applicable Insurance Policies.

B. SETTLEMENT SHARES

12. As soon as practicable after the entry by the Court of the Preliminary Approval Order, Akorn shall use its best efforts to issue and deliver to the Escrow Agent pursuant to Section 3(a)(10), as fiduciary for the benefit of the Settlement Class, all shares constituting Available Settlement Shares as of the date of entry of the Preliminary Approval Order, which shares shall be held by the Escrow Agent as fiduciary for the benefit of the Settlement Class. Notwithstanding the foregoing, it is understood and agreed between the Litigation Parties that the Settlement Shares are to be issued pursuant to the registration exemption set forth in Section 3(a)(10), and nothing herein shall require Akorn to undertake any steps toward issuance of Available Settlement Shares other than seeking entry of the Order and Final Judgment prior to satisfaction of the requirements of Section 3(a)(10).

13. No later than ten (10) business days after the date on which the Order and Final Judgment becomes Final, Akorn shall issue and deliver to the Escrow Agent pursuant to Section 3(a)(10), as fiduciary for the benefit of the Settlement Class, all shares constituting Available Settlement Shares as of the date on which the Order and Final Judgment becomes Final that were not already issued and delivered to the Escrow Agent pursuant to paragraph 12 herein.

14. No later than ninety (90) days after the date on which any Settlement Shares not yet issued and delivered pursuant to paragraphs 12 and 13 herein shall become Available Settlement Shares through the expiration of unexercised out-of-the-money options outstanding as of the date hereof, Akorn will issue and deliver to the Escrow Agent pursuant to Section 3(a)(10), as fiduciary for the benefit of the Settlement Class, any such Available Settlement Shares; provided, however, that, for the avoidance of doubt and consistent with the definition of

“Settlement Shares”, Akorn shall be under no obligation to issue any shares under this Stipulation on account of options that expire on or after January 1, 2025.

15. The issuance and delivery of the Settlement Shares shall be subject to the following terms and conditions:

(a) In order to qualify the Settlement Shares for the exemption from the registration requirements of the Securities Act provided by Section 3(a)(10), the Litigation Parties and their counsel will cooperate so that each of the following conditions will be satisfied: (i) Settlement Class Members shall be given adequate notice of the Settlement Hearing; (ii) the Settlement Hearing shall be open to all Settlement Class Members; (iii) there shall be no improper impediments to the appearance of any Settlement Class Member at the Settlement Hearing; (iv) the Court shall be advised before the Settlement Hearing that Akorn will rely on the Section 3(a)(10) registration exemption based on the Court’s approval of the issuance of the Settlement Shares as part of the consideration provided in exchange for the settlement and release of the Settled Claims; (v) the Settlement Hearing shall include consideration of the fairness of the terms and conditions of the issuance of the Settlement Shares in exchange for the settlement and release of the Settled Claims; (vi) the Order and Final Judgment shall approve the fairness of the terms and conditions of the issuance of the Settlement Shares in exchange for the settlement and release of the Settled Claims; (vii) the Order and Final Judgment shall state that the Settlement Shares are freely tradable, and exempt from registration under Section 3(a)(10) and any analogous provisions of applicable state securities laws, and that Akorn may choose to distribute the Settlement Shares without registration and compliance with the prospectus delivery requirements of the U.S. securities laws or any analogous state securities laws based on the Court’s findings; and (viii) Lead

Counsel will not request (and Plaintiffs' Counsel will not accept) more than 25% of the Settlement Shares in connection with an award of attorneys' fees, as set forth in paragraph 21 herein.

(b) All Settlement Shares, including any Settlement Shares awarded to Plaintiffs' Counsel as attorneys' fees, may only be issued when such Settlement Shares have become Available Settlement Shares, subject to notice of issuance (which such notice Akorn will provide promptly after issuance). The Settlement Shares shall be issued by Akorn only in certificate-less (book entry) form. Akorn shall not issue or otherwise provide any physical certificates for the Settlement Shares or any portion thereof.

(c) Upon delivery of the Settlement Shares to the Escrow Agent, the Escrow Agent shall hold the Settlement Shares as fiduciary for the benefit of the Settlement Class and, as applicable, as Court awarded attorneys' fees and/or Litigation Expenses in accordance with paragraphs 20 through 25 herein. None of the Settlement Class Members nor any of Defendants shall have any claim against Lead Plaintiffs, Plaintiffs' Counsel, or any of their agents, relating to distributions of the Settlement Shares made in accordance with this Stipulation and the plan of allocation approved by the Court. The Releasing Persons hereby release any and all Claims against the Released Persons that arise out of, relate to, or are based on the issuance or transfer of the Settlement Shares made in accordance with this Stipulation or distributions of the Settlement Shares by Lead Plaintiffs, Lead Counsel, the Escrow Agent, or any of their agents, and shall forever be barred and enjoined from prosecuting any and all such claims against any of the Released Persons, provided, however, that the foregoing shall not alter Akorn's obligations under this Stipulation with respect to the issuance or delivery of the Settlement Shares or the payment of

costs associated therewith to the extent required by paragraph 15(e) herein.

(d) After the Effective Date, Lead Counsel may direct the Escrow Agent to sell any amount of Class Settlement Shares for the benefit of the Settlement Class. The Escrow Agent shall deposit the proceeds from such sale(s) into the Escrow Account. Such proceeds shall be distributed to Authorized Claimants in the same manner as the Cash Settlement Amount, according to the terms set forth in paragraphs 38 through 40 herein and Lead Counsel shall have no liability to the Settlement Class for any decisions made with respect to the sale or transfer of the Class Settlement Shares in accordance with the terms of this Stipulation.

(e) With respect to any Class Settlement Shares that are not sold by the Escrow Agent, Lead Counsel (through its broker) shall direct the Escrow Agent to transfer such Settlement Shares in accordance with the Applicable Procedures, to the accounts of Authorized Claimants, all in accordance with the written instructions to be provided by Lead Counsel or the Claims Administrator at the time of this transfer in accordance with paragraph 15(h) herein. Akorn shall be responsible for the payment of all costs associated with the issuance and delivery of the Settlement Shares, including without limitation, (i) all costs related to the transfer of the Settlement Shares to the Escrow Account and (ii) all costs associated with listing the Settlement Shares on The NASDAQ Global Select Market (or any other stock exchange or market on which Akorn's common stock is then listed or quoted). However, all costs associated with distributing the Settlement Shares to Authorized Claimants (including any costs incurred by the Transfer Agent) will be paid from the Escrow Account and will constitute Notice and Administration Expenses. The Escrow Agent shall maintain a cash reserve sufficient to cover the anticipated Notice and

Administration Expenses associated with distributions of Settlement Shares.

(f) Class Settlement Shares shall not be distributed by the Escrow Agent until Akorn's General Counsel receives instructions from Lead Counsel as to the distribution of such Settlement Shares. Such instructions will include, but are not limited to, transferring the Settlement Shares in accordance with the Applicable Procedures, to the accounts of Authorized Claimants in the amounts directed by the Claims Administrator. Akorn shall authorize the Escrow Agent to distribute the Settlement Shares in accordance with such instructions.

(g) Akorn shall direct the Transfer Agent to provide Lead Counsel with instructions as to all information the Transfer Agent requires, as well as all formatting requirements, to enable the transfer of the Settlement Shares electronically in accordance with the Applicable Procedures, to the accounts of Authorized Claimants. Such instructions shall include, but are not limited to, any requirements necessary to satisfy the guidelines of the Securities Transfer Association, Inc. so that the Proof of Claim Forms to be sent to potential Settlement Class Members capture all such information in the appropriate format, as well as the physical or electronic medium for the delivery of such information that the Transfer Agent requires. Akorn shall direct the Transfer Agent to provide such instructions and review and provide comments, if any, on the Proof of Claim Form within five (5) calendar days of the filing of the motion for entry of the Preliminary Approval Order. Any changes made to the Proof of Claim Form at the request of the Transfer Agent shall not be deemed material changes to the Proof of Claim Form.

(h) Lead Counsel shall have sole responsibility, on behalf of the Settlement Class, for directing Akorn to instruct the Escrow Agent to transfer in accordance with the Applicable

Procedures, to the accounts of Authorized Claimants the Settlement Shares allocable to those claimants. Any such directions (the “Settlement Shares Instructions”) given to Akorn or the Escrow Agent by Lead Counsel shall be set forth in a writing signed by Lead Counsel and accompanied by such information, and in such physical or electronic medium as specified by the Transfer Agent as set forth in paragraph 15(g) herein, to permit the Settlement Shares to be immediately transferred electronically in accordance with the Applicable Procedures, to the accounts of Authorized Claimants, in such amounts as are appropriate. Lead Counsel, Akorn, the Escrow Agent, the Claims Administrator, and all entities under the direction of Lead Counsel shall cooperate with the Transfer Agent to provide such information as is required for the Settlement Shares Instructions. Each of Lead Counsel and the Claims Administrator has the right to rely on the instructions provided by the Transfer Agent as to the information it requires, as well as the formatting requirements to enable the transfer of the Settlement Shares electronically in accordance with the Applicable Procedures, to the accounts of Authorized Claimants. The Transfer Agent, in its sole discretion, may request additional information or reformatting in order to effect the transfer of the Settlement Shares in accordance with the Applicable Procedures, to the accounts of the Authorized Claimants. Each of Akorn, the Escrow Agent and the Transfer Agent has the right to rely on the accuracy and completeness of the information provided by Lead Counsel or Authorized Claimants with respect to the issuance and distribution of the Settlement Shares. None of the Defendants, the Escrow Agent or the Transfer Agent shall have any responsibility or liability regarding the accuracy or completeness of any information provided by Lead Counsel or any Authorized Claimant in respect to the issuance or distribution of the Settlement Shares, or any losses incurred in connection therewith; however, as discussed in this paragraph and in

paragraph 15(g) herein, Akorn and the Transfer Agent are responsible for providing complete and accurate instructions to Lead Counsel and the Claims Administrator with respect to the information and formatting required in respect to the issuance or distribution of the Settlement Shares. Lead Counsel shall provide Defendants' Counsel with notice of the Settlement Shares Instructions at the same time such Settlement Shares Instructions are delivered to Akorn. Lead Counsel shall not issue the Settlement Shares Instructions to Akorn with respect to the Settlement Shares allocable to Authorized Claimants prior to the entry of the Class Distribution Order authorizing the distribution of the Settlement Shares, in whole or part, to Authorized Claimants.

(i) As of the date the Settlement Shares are issued to the Escrow Agent, as fiduciary for the Settlement Class, the Lead Plaintiffs and the Settlement Class Members shall retain the benefit of any increase in the value of Akorn's common stock and assume the risk of any decrease in the value of Akorn's common stock.

(j) During the period between the initial issuance of the Settlement Shares and the distribution of Class Settlement Shares to Authorized Claimants, on any matter or at any meeting at which shareholders of Akorn are entitled to vote, any such Settlement Shares not yet sold or distributed to Authorized Claimants shall be deemed voted (and Lead Counsel shall and shall cause the voting of the Settlement Shares) in the same manner in which the majority of the outstanding shares of Akorn's common stock (exclusive of the Settlement Shares) are actually voted.

(k) Akorn shall not: (i) from the date hereof through December 31, 2024, inclusive, reset the strike price of any options outstanding as of the date hereof that are out-of-the-money as of the date hereof and issued heretofore pursuant to any Akorn Compensation Plan; or

(ii) issue, sell, grant or otherwise dispose of any of the Settlement Shares other than as set forth in this Stipulation, including, but not limited to, as set forth in paragraphs 12 through 15 herein.

C. SETTLEMENT CVRs

16. No later than ten (10) business days after the date on which the Order and Final Judgment becomes Final, Akorn shall issue and deliver to the Escrow Agent pursuant to Section 3(a)(10), as fiduciary for the benefit of the Settlement Class, the Settlement CVRs.

17. The issuance and delivery of the Settlement CVRs shall be subject to the following terms and conditions:

(a) In order to qualify the Settlement CVRs for the exemption from the registration requirements of the Securities Act provided by Section 3(a)(10), the Litigation Parties and their counsel will cooperate so that each of the following conditions will be satisfied: (i) Settlement Class Members shall be given adequate notice of the Settlement Hearing; (ii) the Settlement Hearing shall be open to all Settlement Class Members; (iii) there shall be no improper impediments to the appearance of any Settlement Class Member at the Settlement Hearing; (iv) the Court shall be advised before the Settlement Hearing that Akorn will rely on the Section 3(a)(10) registration exemption based on the Court's approval of the issuance of the Settlement CVRs as part of the consideration provided in exchange for the settlement and release of the Settled Claims; (v) the Settlement Hearing shall include consideration of the fairness of the terms and conditions of the issuance of the Settlement CVRs in exchange for the settlement and release of the Settled Claims; (vi) the Order and Final Judgment shall approve the fairness of the terms and conditions of the issuance of the Settlement CVRs in exchange for the settlement and release of

the Settled Claims; (vii) the Order and Final Judgment shall state that the Settlement CVRs are freely tradable, and exempt from registration under Section 3(a)(10) and any analogous provisions of applicable state securities laws, and that Akorn may choose to distribute the Settlement CVRs without registration and compliance with the prospectus delivery requirements of the U.S. securities laws or any analogous state securities laws based on the Court's findings; and (viii) Lead Counsel will not request (and Plaintiffs' Counsel will not accept) more than 25% of the Settlement CVRs in connection with an award of attorneys' fees, as set forth in paragraph 21 herein.

(b) The Settlement CVRs shall be issued in or substantially in the form set forth in the CVR Agreement. The Settlement CVRs shall be issued by Akorn only in certificate-less (book entry) form. Akorn shall not issue or otherwise provide any physical certificates for the Settlement CVRs or any portion thereof, except as provided by the CVR Agreement.

(c) All Settlement CVRs, including any Settlement CVRs awarded to Plaintiffs' Counsel as attorneys' fees, shall be: (i) valid and binding obligations of Akorn; and (ii) exempt from the registration requirements of the Securities Act pursuant to Section 3(a)(10).

(d) Upon delivery of the Settlement CVRs to the Escrow Agent, the Escrow Agent shall hold the Settlement CVRs as fiduciary for the benefit of the Settlement Class and, as applicable, as Court awarded attorneys' fees and/or Litigation Expenses in accordance with paragraphs 20 through 25 herein. None of the Settlement Class Members nor any of Defendants shall have any claim against Lead Plaintiffs, Plaintiffs' Counsel, or any of their agents, relating to the distributions of the Settlement CVRs made in accordance with this Stipulation and the Plan of Allocation approved by the Court. The Releasing Persons hereby release any and all Claims

against the Released Persons that arise out of, relate to, or are based on the issuance or transfer of the Settlement CVRs made in accordance with this Stipulation and the CVR Agreement or distributions of the Settlement CVRs by Lead Plaintiffs, Lead Counsel, the Escrow Agent, or any of their agents, and shall forever be barred and enjoined from prosecuting any and all such claims against any of the Released Persons, provided, however, that the foregoing shall not alter Akorn's obligations under this Stipulation with respect to the issuance or delivery of the Settlement CVRs or the payment of costs associated therewith to the extent required by paragraph 17(e) herein.

(e) Akorn shall be responsible for the payment of all costs associated with the issuance and delivery of the Settlement CVRs, including without limitation, (i) all costs related to the transfer of the Settlement CVRs to the Escrow Account and (ii) all costs associated with listing the Settlement CVRs on The NASDAQ Global Market (or any other such national securities exchange); provided, however, that Lead Counsel and Lead Plaintiffs shall cooperate reasonably and in good faith with Akorn as to any listing of such Settlement CVRs for trading on The NASDAQ Global Market (or any other such national securities exchange). However, all costs associated with distributing the Settlement CVRs to Authorized Claimants (including any costs incurred by the Trustee) will be paid from the Escrow Account and will constitute Notice and Administration Expenses.

(f) After the Effective Date, Lead Counsel may direct the Escrow Agent to sell any amount of Settlement CVRs for the benefit of the Settlement Class. The Escrow Agent shall deposit the proceeds from such sale(s) into the Escrow Account. Such proceeds shall be distributed to Authorized Claimants in the same manner as the Cash Settlement Amount, according to the

terms set forth in paragraphs 38 through 40 herein. Lead Counsel shall have no liability to the Settlement Class for any actions taken with respect to the transfer or sale of the Settlement CVRs in accordance with the terms of this Stipulation.

(g) Settlement CVRs shall not be distributed by the Escrow Agent until Akorn's General Counsel receives instructions from Lead Counsel as to the distribution of such Settlement CVRs. Such instructions will include, but are not limited to, transferring the Settlement CVRs in accordance with the CVR Agreement and the Applicable Procedures, to the accounts of Authorized Claimants in the amounts directed by the Claims Administrator. Akorn shall authorize the Escrow Agent to distribute the Settlement CVRs in accordance with such instructions.

(h) Akorn shall direct the Trustee to provide Lead Counsel with instructions as to all information the Trustee requires, as well as all formatting requirements, to enable the transfer of the Settlement CVRs electronically in accordance with the CVR Agreement and the Applicable Procedures, to the accounts of Authorized Claimants. Such instructions shall include, but are not limited to, any requirements necessary to satisfy the guidelines of the Securities Transfer Association, Inc. so that the Proof of Claim Forms to be sent to potential Settlement Class Members capture all such information in the appropriate format, as well as the physical or electronic medium for the delivery of such information that the Trustee requires. Akorn shall direct the Trustee to provide such instructions and review and provide comments, if any, on the Proof of Claim Form within five (5) calendar days of the filing of the motion for entry of the Preliminary Approval Order. Any changes made to the Proof of Claim Form at the request of the Trustee shall not be deemed material changes to the Proof of Claim Form.

(i) Lead Counsel shall have sole responsibility, on behalf of the Settlement Class, for directing Akorn to instruct the Escrow Agent to transfer in accordance with the CVR Agreement and the Applicable Procedures, to the accounts of Authorized Claimants the Settlement CVRs allocable to those claimants. Any such directions (the “Settlement CVRs Instructions”) given to Akorn or the Escrow Agent by Lead Counsel shall be set forth in a writing signed by Lead Counsel and accompanied by such information, and in such physical or electronic medium as specified by the Trustee as set forth in paragraph 17(g) herein, to permit the Settlement CVRs to be immediately transferred electronically in accordance with the CVR Agreement and the Applicable Procedures, to the accounts of Authorized Claimants, in such amounts as are appropriate. Lead Counsel, Akorn, the Escrow Agent, the Claims Administrator, and all entities under the direction of Lead Counsel shall cooperate with the Trustee to provide such information as is required for the Settlement CVRs Instructions. Each of Lead Counsel and the Claims Administrator has the right to rely on the instructions provided by the Trustee as to the information it requires, as well as the formatting requirements to enable the transfer of the Settlement CVRs electronically in accordance with the CVR Agreement and the Applicable Procedures, to the accounts of Authorized Claimants. The Trustee, in its sole discretion, may request additional information or reformatting in order to effect the transfer of the Settlement CVRs in accordance with the CVR Agreement and the Applicable Procedures, to the accounts of the Authorized Claimants. Each of Akorn, the Escrow Agent and the Trustee has the right to rely on the accuracy and completeness of the information provided by Lead Counsel or Authorized Claimants with respect to the issuance and distribution of the Settlement CVRs. None of the Defendants, the Escrow Agent or the Trustee shall have any responsibility or liability regarding the accuracy or

completeness of any information provided by Lead Counsel or any Authorized Claimant in respect to the issuance or distribution of the Settlement CVRs, or any losses incurred in connection therewith; however, as discussed in this paragraph and in paragraph 17(g) herein, Akorn and the Trustee are responsible for providing complete and accurate instructions to Lead Counsel and the Claims Administrator with respect to the information and formatting required in respect to the issuance or distribution of the Settlement CVRs. Lead Counsel shall provide Defendants' Counsel with notice of the Settlement CVRs Instructions at the same time such Settlement CVRs Instructions are delivered to Akorn. Lead Counsel shall not issue the Settlement CVRs Instructions to Akorn with respect to the Settlement CVRs allocable to Authorized Claimants prior to the entry of the Class Distribution Order authorizing the distribution of the Settlement CVRs, in whole or part, to Authorized Claimants.

D. ADMINISTRATION OF THE SETTLEMENT CONSIDERATION

18. In no event shall Defendants have any responsibility, financial obligation, or liability whatsoever with respect to the operation, management or disbursement of the Settlement Fund as may be held in the Escrow Account, once established. Defendants shall likewise have no responsibility whatsoever for the allocation or distribution of the Settlement Fund and shall not be responsible or otherwise liable, including to or with Lead Plaintiffs, Lead Counsel, any Settling Parties, the Escrow Agent or the Claims Administrator for any disputes relating to the amount, allocation, or distribution of any fees, costs, or awards of any kind. After the delivery of the Settlement Shares and Settlement CVRs in accordance with paragraphs 12 through 17 herein, Defendants shall not be liable for any additional payments of any kind to any Settling Parties or to

any other person or entity with respect to this Settlement or Stipulation. However, for the avoidance of doubt, nothing in this paragraph shall relieve Akorn from its obligations pursuant to paragraphs 9 through 11.

19. Akorn shall be solely responsible for the delivery of the Settlement Shares and the Settlement CVRs, and the D&O Insurers shall be solely responsible for the payment of the Cash Settlement Amount. In no event shall the Individual Defendants be liable for the payment or delivery of any element of the Settlement Consideration. In no event shall Defendants or their insurers (including, but not limited to, the D&O Insurers) be liable for or required to pay any amounts of any kind to Plaintiffs or Plaintiffs' Counsel except as expressly set forth herein. For the avoidance of doubt, neither Defendants nor their insurers (including, but not limited to, the D&O Insurers) shall be liable for or required to pay any interest on the Settlement Consideration of any kind and relating to any time period (including prior to the transfer of the Settlement Consideration into the Escrow Account) or any amount to Lead Plaintiffs' or Plaintiffs' Counsel on account of attorneys' fees, Litigation Expenses or reimbursement of any other fees or expenses.

V. USE OF SETTLEMENT FUND

A. ATTORNEYS' FEES & LITIGATION EXPENSES

20. Lead Counsel will apply to the Court for a collective award of attorneys' fees to Plaintiffs' Counsel to be paid from (and out of) the Settlement Fund. Lead Counsel will also apply to the Court for reimbursement of Litigation Expenses. Lead Counsel's application for an award of attorneys' fees and Litigation Expenses is not the subject of any agreement between the Litigation Parties other than what is set forth in this Stipulation, and Defendants take no position with respect to Lead Counsel's request for such fees and expenses. Defendants shall have

no responsibility for or liability whatsoever for any notice sent to Settlement Class Members concerning Lead Counsel's application for an award of attorneys' fees and Litigation Expenses.

21. Lead Counsel shall not request (and Plaintiffs' Counsel shall not accept) as an award of attorneys' fees more than 25% of each of the Cash Settlement Amount, Settlement Shares (upfront and as they become available), and Settlement CVRs.

22. Any attorneys' fees and/or Litigation Expenses awarded by the Court shall be paid to Plaintiffs' Counsel from any amounts available in the Settlement Fund within fifteen (15) business days of the date on which the Order and Final Judgment is entered, subject to Plaintiffs' Counsel's joint and several obligation to make appropriate refunds or repayments to the Settlement Fund of the awarded attorneys' fees and/or Litigation Expenses, plus accrued interest at the same net rate as is earned by the Cash Escrow Fund, if, as a result of any further proceedings, successful collateral attack, or otherwise modified by court order, the award of attorneys' fees and/or Litigation Expenses is reduced or reversed; provided, however, that no Settlement Shares or Settlement CVRs may be sold or distributed by the Escrow Agent prior to the Effective Date. In such case, Plaintiffs' Counsel shall make the appropriate refund or repayment in full to the Settlement Fund within ten (10) business days after any order reducing or reversing the award of attorneys' fees and/or Litigation Expenses that has become Final.

23. Neither Plaintiffs nor Plaintiffs' Counsel may cancel or terminate the Settlement or this Stipulation based on the Court's or any appellate court's ruling with respect to attorneys' fees and/or Litigation Expenses.

24. In no event will any Defendant or any of Defendants' insurers (including, but not limited to, the D&O Insurers beyond their obligations under the Applicable Insurance

Policies) be requested or required to pay, or be liable in any way for, any Plaintiffs' attorneys' fees, Litigation Expenses or any other costs, fees or expenses of any kind.

25. Lead Counsel shall allocate the attorneys' fees awarded by the Court among Plaintiffs' Counsel in a manner that it, in good faith, believes reflects the contribution of such counsel to the institution, prosecution and settlement of the Action against the Defendants. Defendants shall have no responsibility for or liability whatsoever with respect to the allocation or award of attorneys' fees or Litigation Expenses. The attorneys' fees and Litigation Expenses that are awarded to Plaintiffs' Counsel shall be payable solely from the Settlement Fund.

B. ADMINISTRATION EXPENSES

26. All reasonable Notice and Administration Expenses shall be paid from the Settlement Fund when incurred, except that prior to the Effective Date, the Claims Administrator and/or Lead Counsel, as applicable, may only draw on the Settlement Fund in an amount not exceeding \$250,000.00 to pay Notice and Administration Expenses incurred. In addition, Taxes, Tax Expenses and fees related to the administration and maintenance of the Escrow Account and investment of the Settlement Fund may be paid from the Settlement Fund as incurred, without further approval of the Defendants, their insurers (including, but not limited to, the D&O Insurers) or further order of the Court. Should there be insufficient Settlement Funds in the Escrow Account to cover Notice and Administration Expenses, Taxes, Tax Expenses or fees related to the administration of the Escrow Account, Lead Counsel shall pay any such expenses. Lead Counsel may subsequently seek reimbursement of any such expenses as Litigation Expenses hereunder. After the Effective Date, without approval of the Defendants, their insurers (including, but not

limited to, the D&O Insurers) or further order of the Court, Notice and Administration Expenses may be paid from the Settlement Fund as incurred.

C. USE & TAX TREATMENT

27. (a) The Litigation Parties agree that the Settlement Fund is intended to be, and shall be treated as being, a “qualified settlement fund” within the meaning of Treasury Regulation § 1.468B-1. Lead Counsel shall administer the Settlement Fund and shall be the administrator within the meaning of Treasury Regulation § 1.468B-2(k)(3) (the “Administrator”).

(b) Lead Counsel as Administrator shall be solely responsible for filing or causing to be filed all information and other tax returns as may be necessary or appropriate (including, without limitation, the returns described in Treasury Regulation § 1.468B-2(k)) for the Settlement Fund. Lead Counsel as Administrator shall also be responsible for causing payment to be made from the Settlement Fund of any Taxes owed with respect to the Settlement Fund. The Released Persons shall not have any liability or responsibility for any such Taxes. Upon written request, the Defendants will work with Lead Counsel to produce a combined statement described in Treasury Regulation § 1.468B-3(e).

(c) Lead Counsel as Administrator shall timely make such elections as are necessary or advisable to carry out this paragraph, including, as necessary, making a “relation back election”, as described in Treasury Regulation § 1.468B-1, to cause the qualified settlement fund to come into existence at the earliest allowable date, and shall take or cause to be taken all actions as may be necessary or appropriate in connection therewith.

(d) All Taxes shall be paid out of the Settlement Fund, and shall be timely paid, by

the Escrow Agent pursuant to the distribution instructions to be set forth in the Escrow Agreement, and without further order of the Court. Any tax returns prepared for the Settlement Fund (as well as the election set forth therein) shall be consistent with this paragraph and in all events shall reflect that all Taxes on the income earned by the Settlement Fund shall be paid out of the Settlement Fund as provided herein.

(e) The Released Persons shall have no responsibility for or liability for the acts or omissions of Lead Counsel or their agents or the Escrow Agent with respect to the payment of Taxes as described herein.

(f) It is the sole responsibility of the Releasing Persons to pay Taxes or any other taxes, plus any penalties and interest, on any Settlement Consideration received pursuant to the Settlement and disbursement of the Settlement Fund that are construed to be income, and the Settlement Fund, Lead Plaintiffs, Plaintiffs' Counsel, Defendants, their insurers, and Defendants' Counsel shall have no liability for such taxes, penalties or interest.

28. This is not a claims-made settlement. Upon the occurrence of the Effective Date, Defendants and/or such other persons or entities funding the Settlement Fund on the Defendants' behalf, shall not have any right to the return of the Settlement Fund or any portion thereof for any reason.

VI. NOTICE AND SETTLEMENT ADMINISTRATION

A. CLAIMS ADMINISTRATOR & DEFENDANTS' OBLIGATIONS

29. As part of the Preliminary Approval Order, Lead Counsel shall seek appointment of the Claims Administrator. The Claims Administrator shall administer the Settlement, including, but not limited to, the process of receiving, reviewing and approving or denying Claims, under Lead Counsel's supervision and subject to the jurisdiction of the Court.

30. Other than Akorn's obligations pursuant to paragraphs 9 through 17 and 31 herein, none of the Defendants, nor any other Released Person, shall have any involvement in, or any responsibility, authority or liability whatsoever for, and will not be requested to or required to pay any costs, fees or expenses in connection with: (i) the administration of the Settlement, including the selection of the Claims Administrator; (ii) providing notice to the Settling Parties; (iii) the Plan of Allocation; (iv) the Class Distribution Order; (v) reviewing, challenging or otherwise making determinations concerning Proof of Claim Forms; or (vi) the allocation, disbursement and payment of the Settlement proceeds out of (and from) the Net Settlement Fund. Defendants and all other Released Persons shall have no liability whatsoever to any person or entity, including, but not limited to, Lead Plaintiffs, any other Settlement Class Members or Plaintiffs' Counsel, in connection with the foregoing.

B. NOTICE, SUBMISSION OF PROOF OF CLAIM FORMS & THE PLAN OF ALLOCATION

31. In accordance with the terms of the Preliminary Approval Order, Lead Counsel shall cause the Claims Administrator to mail the Notice and Proof of Claim Form to those Settlement Class Members as may be identified through reasonable effort. Lead Counsel shall also cause the Claims Administrator to have the Publication Notice published in accordance with

the terms of the Preliminary Approval Order. For the purposes of identifying and providing notice to the Settlement Class, Akorn shall cooperate to the extent reasonably necessary, including requesting that the Transfer Agent provide (at no cost to the Settlement Fund, Lead Counsel or the Claims Administrator) information in electronic searchable format from Akorn's transfer records concerning the identity of the Settlement Class Members and their transactions in Akorn's common stock during the Class Period.

32. The Claims Administrator shall receive Proof of Claim Forms and determine: (i) whether the Claim is a valid Claim, in whole or in part, and (ii) each Authorized Claimant's *pro rata* share of the Net Settlement Fund based upon the Plan of Allocation as approved by the Court. No Defendant, nor any other Released Person, shall have any involvement with or liability, obligation or responsibility for the application of the Court-approved Plan of Allocation.

33. The Plan of Allocation to be proposed by Lead Counsel is not a necessary term of the Settlement or of this Stipulation and it is not a condition of the Settlement or of this Stipulation that any particular Plan of Allocation be approved by the Court. Any decision by the Court concerning the Plan of Allocation shall not affect the validity of or finality of this Stipulation or Settlement. Defendants and the other Released Persons shall not object in any way to the Plan of Allocation or any other plan of allocation in this Action.

C. DETERMINATION OF AUTHORIZED CLAIMANTS

34. For purposes of determining the extent, if any, to which a Settlement Class Member shall be entitled to be treated as an Authorized Claimant, the following conditions shall apply:

(a) Each Settlement Class Member shall be required to timely submit a Proof of Claim Form, signed under penalty of perjury and supported by such documents as are designated therein, including proof of the Claimant's loss, or such other documents or proof as the Claims Administrator or Lead Counsel, in their discretion, may deem acceptable;

(b) All Proof of Claim Forms must be submitted by the date set by the Court in the Preliminary Approval Order and specified in the Notice unless such period is extended by order of the Court. Any Settlement Class Member who fails to submit a valid Proof of Claim Form by such date shall be forever barred from receiving any payment pursuant to this Stipulation and the Settlement (unless, by order of the Court, a later submitted Proof of Claim Form by such Settlement Class Member is approved), but shall in all other respects be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action, claim or other proceeding of any kind against the Defendants or any other Released Persons concerning the Settled Claims. Provided that it is received before preparation of the distribution of the Net Settlement Fund, a Proof of Claim Form shall be deemed to have been submitted when mailed, if received with a postmark indicated on the envelope and if mailed first-class postage prepaid and addressed in accordance with the instructions thereon. In all other cases, the Proof of Claim Form shall be deemed to have been submitted when actually received by the Claims Administrator;

(c) Each Proof of Claim Form shall be submitted to and reviewed by the Claims Administrator, under the supervision of Lead Counsel, who shall determine in accordance with

this Stipulation and the Court approved plan of allocation, the extent to which, if any, each Claim shall be allowed, subject to review by the Court pursuant to paragraphs 34(d) and 34(e) herein as necessary;

(d) Proof of Claim Forms that do not meet the submission requirements may be rejected. Prior to rejection of a Proof of Claim Form, the Claims Administrator shall communicate with the Claimant in writing in order to afford the Claimant the opportunity to remedy curable deficiencies in the Proof of Claim Form submitted. The Claims Administrator, under the supervision of Lead Counsel, shall notify, in a timely fashion and in writing, all Claimants whose Claim it proposes to reject in whole or in part, setting forth the reasons therefore, and shall indicate in such notice that the Claimant whose Claim is to be rejected has the right to a review by the Court if the Claimant so desires and complies with the requirements of paragraph 34(e) herein; and

(e) If any Claimant whose Claim has been rejected in whole or in part desires to contest such rejection, the Claimant must, within twenty (20) calendar days after the date of mailing of the notice required in paragraph 34(d) herein, serve upon the Claims Administrator a notice and statement of reasons indicating the Claimant's grounds for contesting the rejection, along with any supporting documentation, and requesting a review thereof by the Court. If a dispute concerning a Claim cannot be otherwise resolved, Lead Counsel shall thereafter present the request for review to the Court.

35. Each Claimant shall be deemed to have submitted to the jurisdiction of the Court with respect to the Claimant's Claim, and the Claim will be subject to investigation and

discovery under the Federal Rules of Civil Procedure, provided that such investigation and discovery shall be limited to that Claimant's status as a Settlement Class Member and the validity and amount of the Claimant's Claim. No discovery shall be allowed on the merits of the Action or the Settlement, including from any Defendant, for any reason.

36. All proceedings with respect to the administration, processing and determination of Claims and the determination of all controversies relating thereto, including disputed questions of law and fact with respect to the validity of any Claims, shall be subject to the jurisdiction of the Court. All Settling Parties expressly waive trial by jury (to the extent any such right may exist) and any right of appeal or review with respect to such determinations.

37. All Authorized Claimants shall, as part of the Proof of Claim Form, execute an individual release of the Released Persons upon the same terms as set forth herein, as a condition precedent to receipt of any part of any disbursement from the Settlement Fund, but the failure of any Authorized Claimant to execute such a release shall not in any way affect the validity of the releases provided by Releasing Persons in favor of Released Persons herein, and the Releasing Persons shall nonetheless be bound by the terms of those releases. Further, the failure of any Releasing Person to make a claim on the Settlement Fund shall not affect the validity and effectiveness of the release provided herein in favor of Released Persons, as to that Releasing Person. Lead Counsel and/or the Claims Administrator shall retain copies of the individual releases executed by Authorized Claimants referred to in this paragraph for at least three (3) years after the distribution of the Net Settlement Fund by the Claims Administrator and shall provide copies of individual releases to Defendants' Counsel at no expense if requested to do so.

D. DISTRIBUTION OF THE SETTLEMENT FUND

38. Lead Counsel will apply to the Court, on notice to Defendants' Counsel, for a Class Distribution Order: (i) approving the Claims Administrator's administrative determinations concerning the acceptance and rejection of the Claims submitted; (ii) approving payment of any administration fees and expenses associated with the administration and disbursement of the Settlement Fund from the Escrow Account; and (iii) if the events listed in paragraph 39 herein have occurred, directing payment of the Net Settlement Fund to Authorized Claimants.

39. The Net Settlement Fund shall be distributed to Authorized Claimants by the Claims Administrator and the Transfer Agent, as appropriate, only after the Effective Date and after: (i) all Proof of Claim Forms have been processed, and all Claimants whose Claims have been rejected or disallowed, in whole or in part, have been notified and provided the opportunity to be heard concerning such rejection or disallowance; (ii) all objections with respect to all rejected or disallowed Claims have been resolved by the Court, and all appeals therefrom have been resolved or the time therefore has expired; (iii) all matters with respect to attorneys' fees, Litigation Expenses, costs, and disbursements have been resolved by the Court, all appeals therefrom have been resolved or the time therefore has expired; and (iv) all Notice and Administration Expenses, Taxes and Tax Expenses have been paid from the Settlement Fund.

40. Lead Counsel shall be solely responsible for supervising the administration of the Settlement and distribution of the Net Settlement Fund by the Claims Administrator, the Transfer Agent and the Trustee, as appropriate, subject to Court approval. Lead Counsel shall

have the right, but not the obligation, to waive what they deem to be formal or technical defects in any Proof of Claim Forms submitted in the interests of achieving substantial justice.

41. Payment from the Settlement Fund pursuant to this Stipulation shall be deemed final and conclusive against all Settlement Class Members. All Settlement Class Members whose Claims are not approved for payment shall be barred from participating in distributions from the Net Settlement Fund, but otherwise shall be bound by all of the terms of this Stipulation and the Settlement, including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for herein and therein, and will be permanently barred and enjoined from bringing any action against the Released Persons with respect to any and all of the Settled Claims.

42. No person or entity shall have any claim against Lead Plaintiffs, Lead Counsel, the Claims Administrator or any other agent designated by Lead Counsel, or the Releasing Persons and/or their respective counsel, arising from distributions made from the Settlement Fund substantially in accordance with this Stipulation, the Court approved plan of allocation, the Class Distribution Order, or any other order of the Court. Lead Plaintiffs and Defendants, and their respective counsel and all other Settling Parties, shall have no liability whatsoever for the sale or transfer of the Settlement Shares or Settlement CVRs, investment or distribution of the Settlement Fund or the Net Settlement Fund, the Plan of Allocation, or the determination, administration, calculation, or payment of any Claim by or non-performance of the Claims Administrator, the payment or withholding of Taxes and Tax Expenses (including interests and penalties) owed by the Settlement Fund, or any losses incurred therewith.

43. If the funds remaining in the Settlement Fund following *pro rata* distribution(s) to all Authorized Claimants are an amount that is not cost effective or efficient to

redistribute to Authorized Claimants, then such remaining funds, after payment of any further Notice and Administration Expenses, Taxes and Tax Expenses, shall be contributed to a non-sectarian, not-for profit organization recognized as tax-exempt under Internal Revenue Code § 501(c)(3) to be designated by the Court.

E. REQUEST FOR EXCLUSION FROM THE SETTLEMENT CLASS

44. Any Settlement Class Member wishing to become an Opt-Out must timely mail a signed, written request for exclusion from the Settling Parties to the Claims Administrator, within the time and in accordance with the criteria and containing the information set forth in the Preliminary Approval Order and in the Notice. Unless amended by the Court, the Preliminary Approval Order, attached as Exhibit A hereto, shall provide that requests for exclusion shall be received no later than twenty-one (21) calendar days prior to the Settlement Hearing. Opt-Outs shall not be bound by this Settlement and the releases described herein, shall have no entitlement to or claim upon all or any part of the Settlement Fund, and shall not receive any payment pursuant to the Settlement.

45. Lead Counsel, subject to review by the Court, shall be responsible for determining whether a request for exclusion is timely and valid, in accordance with the criteria specified in the Court's Preliminary Approval Order and in the Notice. To be valid, a request for exclusion must comply fully with the criteria specified in the Preliminary Approval Order and in the Notice, and contain all of the information specified in the Preliminary Approval Order and in the Notice. If a request for exclusion is untimely, or is invalid because it does not otherwise comply with the criteria or contain all of the information specified in the Court's Preliminary Approval Order and in the Notice, then it shall be void and of no effect, and that Settlement Class Member

shall remain part of the Settling Parties in this Action and shall be bound by all of the terms of this Stipulation and Settlement, including the terms of the Order and Final Judgment to be entered in the Action and the releases provided for herein, and will be barred and enjoined from bringing any action against the Released Persons concerning the Settled Claims. Any disputes regarding whether or not a request for exclusion is timely and valid, and thus effective, shall be resolved by the Court.

VII. FINAL APPROVAL OF SETTLEMENT

46. At the Settlement Hearing, Lead Counsel and Defendants' Counsel shall request that the Court enter an Order and Final Judgment in or substantially in the form attached hereto as Exhibit B (with annexes, if any) finding, pursuant to Rule 23(e) of the Federal Rules of Civil Procedure, the Settlement to be fair, reasonable and adequate to the class, and, with regard to the Settlement Shares and Settlement CVRs being issued as part of the Settlement Fund that: (i) the terms and conditions of the proposed issuances are fair to all those who will receive such securities in the proposed exchange; and (ii) the terms and conditions of, and the procedures for, the proposed issuances are fair. Pursuant to Section 3(a)(10), the Court's judgment of the fairness of the Settlement shall serve as a substitute for the registration requirements of the Securities Act with regard to any Settlement Shares or Settlement CVRs.

VIII. EFFECTIVE DATE OF SETTLEMENT

47. The Effective Date of this Settlement shall be the earliest date upon which all of the following shall have occurred:

- (a) the Preliminary Approval Order has been entered by the Court;

(b) the Settlement Consideration (other than any Settlement Shares that are not Available Settlement Shares as of the date the Order and Final Judgment has become Final) has been transferred into the Escrow Account;

(c) the Court has approved the Settlement, following Notice to the Settlement Class and the Settlement Hearing, as prescribed by Rule 23 of the Federal Rules of Civil Procedure; and

(d) the Order and Final Judgment has been entered by the Court and has become Final.

IX. TERMINATION

48. Defendants or Lead Plaintiffs shall have the right to terminate the Settlement and this Stipulation by providing a Termination Notice to counsel for all other signatories hereto, within five (5) calendar days of: (i) the Court's refusal to certify the Settlement Class as agreed by the Litigation Parties in paragraph 3 herein, or any amendment by the Court of the scope of the Settlement Class; (ii) the Court's refusal to enter the Preliminary Approval Order in any material respect; (iii) Defendants' failure to comply with their obligations concerning payment of the Settlement Consideration pursuant to paragraphs 9 through 17 herein; (iv) the Court's refusal to approve this Stipulation or any material part of it; (v) the Court's refusal to enter an Order and Final Judgment in or substantially in the form attached hereto as Exhibit B; or (vi) any material modification, vacatur or reversal of the Order and Final Judgment by a United States Court of Appeals or the United States Supreme Court. For the avoidance of doubt, no decision or proceeding, whether in this Court or any appellate court, with respect to an application for attorneys' fees or reimbursement of Litigation Expenses or with respect to any plan of

allocation: (i) shall be considered material to the Settlement, (ii) shall affect the finality of any Order and Final Judgment, if applicable, or (iii) shall be grounds for termination of the Settlement.

49. In addition to the grounds set forth in paragraph 48 herein, Defendants shall have the unilateral right to terminate the Settlement and this Stipulation, and render them null and void and of no further effect, in the event that Settlement Class Members who purchased or acquired, in aggregate, in excess of a certain number of shares of Akorn common stock during the Class Period (such number as agreed upon by the Litigation Parties) (the “Termination Threshold”), timely and validly request exclusion from the Settlement Class in accordance with the provisions of paragraphs 44 and 45 herein, within the time and in accordance with the criteria set forth in the Preliminary Approval Order and in the Notice.

(a) The Litigation Parties agree to maintain the confidentiality of the Termination Threshold, which is set forth in the Supplemental Agreement Regarding Requests for Exclusion (the “Supplemental Agreement”) that is simultaneously herewith being executed by Defendants’ Counsel and Lead Counsel. The Supplemental Agreement shall not be filed with the Court and its terms shall not be disclosed in any other manner (other than the statements herein and in the Notice, to the extent necessary, or as otherwise provided in the Supplemental Agreement) unless and until the Court otherwise directs or a dispute arises between Lead Plaintiffs and the Defendants concerning the interpretation or application of the Supplemental Agreement, in which event the Litigation Parties shall submit the Supplemental Agreement to the Court in camera and request that the Court afford it confidential treatment.

(b) With respect to this paragraph, no later than twenty-one (21) calendar days prior to the Settlement Hearing, the Claims Administrator shall provide Defendants' Counsel with (i) copies of any and all requests for exclusion from the Settlement Class herein received by the Claims Administrator, (ii) a list of all persons or entities requesting exclusion, (iii) a list of shares of Akorn common stock purchased or acquired during the Class Period by each of those persons or entities (to the extent provided to the Claims Administrator), (iv) an accounting of the aggregate losses claimed to have been suffered by all persons or entities requesting exclusion, and (v) a report by Lead Counsel identifying which requests for exclusion Lead Counsel has determined to be timely and valid under the criteria specified in the Preliminary Approval Order and the Notice, and therefore which putative Settlement Class Members are deemed to be Opt-Outs. With respect to this paragraph, no later than fourteen (14) calendar days prior to the Settlement Hearing, the Claims Administrator shall provide Defendants' Counsel with a representation that all requests for exclusion received have been copied and provided to Defendants' Counsel.

(c) Defendants shall be entitled to exercise the right referenced in this paragraph to terminate the Settlement and this Stipulation only if Defendants' provide Lead Counsel with a Termination Notice and file that notice with the Court no later than 5:00 p.m. Eastern time on the third (3rd) business day prior to the Settlement Hearing.

(d) Lead Counsel may attempt to cause the retraction of any request for exclusion made by any Opt-Out prior to the Settlement Hearing. If Lead Counsel succeeds in causing the retraction of sufficient requests for exclusion such that the remaining Opt-Outs do not satisfy the requirements of the Termination Threshold, then Defendants' Termination Notice automatically

shall be deemed a nullity. To retract a request for exclusion, an Opt-Out must, prior to the Settlement Hearing, file a written notice with the Court stating his, her, or its desire to retract the request for exclusion from the Settlement Class and to be bound by the Settlement, this Stipulation, and any Order and Final Judgment entered herein, provided, however, that the filing of such written notice of retraction may be effected by Lead Counsel.

(e) Any dispute among the Settling Parties concerning the interpretation or application of this paragraph and the Supplemental Agreement shall be presented to the Court for resolution upon the application of any party hereto.

50. If a right to terminate this Stipulation and Settlement arises under either of paragraphs 48 or 49 herein: (i) neither the Defendants nor Lead Plaintiffs (as the case may be) will be required for any reason or under any circumstance to exercise that right; and (ii) any exercise of that right shall be made in good faith, but in the sole and unfettered discretion of the Defendants or Lead Plaintiffs, as applicable.

51. In the event that the Settlement is terminated or any of the requirements of the Effective Date specified in paragraph 47 herein are, for any reason, not satisfied, this Stipulation and Settlement shall be null and void, without prejudice, and none of its terms, including, but not limited to, the certification of the Settlement Class, the appointment of class representatives, and the appointment of class counsel, shall be effective or enforceable, except that paragraphs 51, 52 and 61 herein shall survive such termination; the Settling Parties shall be deemed to have reverted to their respective litigation positions in the Action immediately prior to the date of this Stipulation; the Settling Parties shall proceed in all respects as if this Stipulation

and any related orders had not been entered; neither Lead Plaintiffs nor any other putative Claimant may use the fact of execution of this Stipulation consenting to certification of a class solely for settlement purposes as a basis to argue that Defendants have in any way circumscribed, limited or waived their ability to oppose, for any reason, certification of a class other than for settlement purposes; and the fact and terms of the Settlement, this Stipulation and all settlement discussions shall not be admissible in any trial of this Action or any other proceeding, including, but not limited to, for the purposes of obtaining certification of a class other than for settlement purposes, and shall not be used by Lead Plaintiffs against or to the prejudice of the Defendants or by the Defendants against or to the prejudice of Lead Plaintiffs in any court filings, depositions, at trial, or otherwise.

52. In the event the Settlement is terminated or any of the requirements of the Effective Date specified in paragraph 47 herein are, for any reason, not satisfied, then the Settlement Consideration previously paid on behalf of or by the Defendants, together with any interest and earnings thereon and including repayment of any attorneys' fees or Litigation Expenses disbursed pursuant to paragraphs 20 through 25 herein (together with interest thereon), less any Taxes and/or Tax Expenses paid or due, and less any Notice and Administration Expenses actually incurred and paid or payable from the Settlement Fund pursuant to paragraphs 26 and 27 herein, shall be returned to the entity or entities that deposited the Settlement Consideration into the Escrow Account on Defendants' behalf, within ten (10) business days after written notification of such event. For the avoidance of doubt, in the event that the Settlement is terminated, any Settlement Shares previously issued shall be returned to Akorn and such Settlement Shares shall become unissued shares. At the request of Defendants, the Escrow Agent shall apply for any tax

refund owed on the amounts in the Escrow Account and pay the proceeds, after any deduction of any fees or expenses incurred in connection with such application(s), for refund to the applicable funder or as otherwise directed.

X. MISCELLANEOUS PROVISIONS

A. ENTIRE AGREEMENT

53. All of the exhibits attached hereto are hereby incorporated by reference as though fully set forth herein. Notwithstanding the foregoing, in the event that there exists a conflict or inconsistency between the terms of this Stipulation and the terms of any exhibit attached hereto, the terms of the Stipulation shall prevail.

54. This Stipulation and its exhibits constitute the entire agreement among the Settling Parties concerning the Settlement of the Action, and no representation, warranties, or inducements have been made by any party hereto concerning this Stipulation and its exhibits other than those contained and memorialized in such documents.

B. FINAL & COMPLETE RESOLUTION

55. The Litigation Parties intend this Stipulation and the Settlement to be a final and complete resolution of all Settled Claims between the Settling Parties. Accordingly, Plaintiffs and Plaintiffs' Counsel and Defendants and Defendants' Counsel agree not to assert in any forum that this Action was brought by, prosecuted in, or defended in bad faith or without a reasonable basis. No Settling Party shall assert any claims of or make any application for sanctions for violation of Rule 11 of the Federal Rules of Civil Procedure or other court rule or statute with respect to any claims or defenses asserted in this action.

56. The Stipulation shall be binding upon, and inure to the benefit of, the successors and assigns of the Settling Parties.

C. PUBLICITY

57. In no event shall Lead Plaintiffs, Plaintiffs' Counsel, Defendants, or Defendants' Counsel make any public statement that disparages the business or reputation of any of the other Settling Parties, their counsel, or Released Persons (including, without limitation, Akorn and its officers, directors, management and employees). Nothing in this provision prevents Plaintiffs' Counsel from (a) describing their role in this Action in conversations with Settlement Class Members in the course of giving legal advice regarding the terms of the Settlement, or (b) making statements about Defendants in proceedings before the Court or any court considering this Action.

58. Although Defendants retain their right to deny that the Claims asserted in the Action were meritorious, Defendants and Defendants' Counsel will not assert to any media representative (whether or not for attribution) that the Action was commenced or prosecuted in bad faith, nor will they deny that the Action was commenced and prosecuted in good faith and is being settled voluntarily after consultation with competent legal counsel. In all events, Plaintiffs and Plaintiffs' Counsel and Defendants and Defendants' Counsel shall not make any accusations of wrongful or actionable conduct by any Litigation Party concerning the prosecution, defense and resolution of the Action, and shall not otherwise suggest that the Settlement constitutes an admission of any Claim or defense alleged.

D. CONTRIBUTIONS

59. This Stipulation shall not be construed more strictly against one party than another merely by virtue of the fact that it, or any part of it, may have been prepared initially by counsel for one of the Litigation Parties, it being recognized that it is the result of arm's-length negotiations between the Litigation Parties and that all Litigation Parties have contributed substantially and materially to the preparation of this Stipulation.

E. PRESERVATION OF DOCUMENTS

60. Defendants will take reasonable steps to retain and preserve any documents, information (including electronically stored information) and other evidence potentially relevant to continuing litigation, if any, against the D&O Insurers. For the avoidance of doubt, no Defendant shall have any obligation to provide any documents, information or other evidence: (a) protected by the attorney-client privilege, joint defense privilege or other work product doctrine; or (b) reflecting legal advice provided to Defendants by Defendants' Counsel concerning the allegations in the Action.

F. NO ADMISSION OF WRONGDOING

61. This Stipulation, whether or not consummated, and any proceedings taken pursuant to it:

(a) shall not be offered or received against any Defendant or Released Person as evidence of, or construed as or deemed to be evidence of, any presumption, concession, or admission by any Defendant or Released Person with respect to the truth of any fact alleged by any of the Plaintiffs or the validity of any Settled Claim that has been or could have been asserted

in the Action or in any litigation, or the deficiency of any defense that has been or could have been asserted in the Action or in any litigation, or of any liability, negligence, fault or wrongdoing of any Defendant or Released Person;

(b) shall not be offered or received against any Defendant or Released Person as evidence of a presumption, concession or admission of any fault, misrepresentation or omission with respect to any statement or written document approved or made by any Defendant or Released Person;

(c) shall not be offered or received against any Defendant or Released Person as evidence of a presumption, concession or admission with respect to any liability, negligence, fault or wrongdoing, or in any way referred to for any other reason as against any Defendant or Released Person, in any other civil, criminal or administrative action or proceeding, other than such proceedings as may be necessary to effectuate the provisions of this Stipulation; provided, however, that if this Stipulation is approved by the Court, the Settling Parties may refer to it to effectuate the liability protection granted them hereunder;

(d) shall not be construed against any Defendant or Released Person as an admission or concession that the consideration to be given hereunder represents the amount which could or would have been recovered after trial; and

(e) shall not be construed as or received in evidence as an admission, concession or presumption against Lead Plaintiffs or any of the Releasing Persons that any of their claims are without merit, or that any defenses asserted by any Defendants have any merit, or that damages recoverable under the Second Amended Complaint would not have exceeded the Settlement

Consideration or the Settlement Fund.

G. AMENDMENT, MODIFICATION & WAIVER

62. The terms of this Stipulation, as reflected in this Stipulation, may not be modified or amended, nor may any of its provisions be waived, except by a writing signed by both Lead Plaintiffs and each Defendant (or their successors-in-interest).

63. The waiver by any one signatory to this Stipulation of any breach of this Stipulation by any other party shall not be deemed a waiver of any other prior or subsequent breach of this Stipulation. Any such waiver shall be made on behalf of the party waiving the breach, and will not constitute a waiver by any other party.

H. HEADINGS

64. The headings herein (including any and all subheadings) are used for the purpose of convenience only and are not meant to have legal effect.

I. JURISDICTION OF THE COURT

65. The administration and consummation of the Settlement as embodied in this Stipulation shall be under the authority of the Court, and the Court shall retain jurisdiction for the purpose of entering orders providing for awards of attorneys' fees and Litigation Expenses to Plaintiffs' Counsel and enforcing the terms of this Stipulation, including the Plan of Allocation (or such other plan of allocation as may be approved by the Court) and the distribution of the Net Settlement Fund to Settlement Class Members, except that the CVR Agreement and all suits, actions, proceedings, claims and causes of action (whether in contract or tort) based upon, arising

out of or relating to the CVR Agreement shall be subject to the exclusive jurisdiction of the court as stated therein.

J. CHOICE OF LAW

66. The construction, interpretation, operation, effect and validity of this Stipulation and all documents necessary to effectuate it, shall be governed by the internal laws of the State of New York without regard to conflicts of laws, except to the extent that federal law requires that federal law governs.

K. VENUE & MULTI DISTRICT LITIGATION

67. In the event that any Additional Securities Action shall be commenced in a court other than the Northern District of Illinois, Defendants shall promptly move pursuant to 28 U.S.C. § 1404 and/or § 1407 to transfer such Additional Securities Action to the Northern District of Illinois.

68. Upon transfer of such Additional Securities Action to the Northern District of Illinois, the Litigation Parties shall jointly request and take all steps necessary to effect the reassignment of such action to the Court's docket pursuant to Local Rule 40.4 and the stay of such action pursuant to the Stay Order.

L. EXECUTION

69. This Stipulation may be executed in one or more counterparts, including by signature transmitted by facsimile or email. All executed counterparts and each of them shall be deemed to be one and the same instrument.

M. NOTICE

70. If any Settling Party is required to give notice to another Settling Party under this Stipulation, such notice shall be in writing and shall be deemed to have been duly given upon receipt of hand delivery or facsimile or email transmission, with confirmation of receipt. Notice shall be provided as follows:

If to Lead Plaintiffs or Plaintiffs'
Counsel:

Entwistle & Cappucci LLP
Attn: Andrew J. Entwistle, Esq.
500 W. 2nd Street, Suite 1900-16
Austin, TX 78701
Tel.: (512) 710-5960
aentwistle@entwistle-law.com

If to Defendants or Defendants'
Counsel:

Cravath, Swaine & Moore LLP
Attn: Robert H. Baron, Esq.
Worldwide Plaza
825 Eighth Avenue
New York, NY 10019
Tel.: (212) 474-1000
rbaron@cravath.com

-and-

Figliulo & Silverman, P.C.
Attn: James R. Figliulo
10 S. LaSalle Street, Suite 3600
Chicago, IL 60603
Tel.: (312) 251-4600
jfigliulo@fslegal.com


N. AUTHORITY OF COUNSEL

71. All counsel and any other person executing this Stipulation and any of the exhibits hereto, or any related settlement documents, warrant and represent that they have the full authority to do so and that they have the authority to take appropriate action required or permitted to be taken pursuant to this Stipulation to effectuate its terms.

Dated: August 9, 2019

Dated: August 9, 2019.

CRAVATH, SWAINE & MOORE LLP


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Attorneys for Defendants

Dated: August 9, 2019.

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