

SEYFARTH SHAW LLP
 Kurt A. Kappes (SBN 146384)
 James D. McNairy (SBN 230903)
 400 Capitol Mall, Suite 2350
 Sacramento, California 95814-4428
 Telephone: (916) 448-0159
 Facsimile: (916) 558-4839

SEYFARTH SHAW LLP
 Robert B. Milligan (SBN 217348)
 2029 Century Park East, Suite 3300
 Los Angeles, California 90067
 Telephone: (310) 277-7200
 Facsimile: (310) 201-5219

MILLER NASH LLP
 John F. Neupert (*pro hac vice to be submitted*)
 3400 U.S. Bancorp Tower
 111 S.W. Fifth Avenue
 Portland, Oregon 97204-3699
 Phone: (503) 224-5858
 Fax: 503.224.0155

Attorneys for Defendants
 LIVING HARVEST CONSCIOUS NUTRITION,
 INC. and LIVING HARVEST FOODS, INC.

SHOPOFF & CAVALLO LLP
 Gregory S. Cavallo (SBN 173270)
 44 Montgomery Street, Suite 1670
 San Francisco, CA 94104
 Telephone: (415) 984-1975
 Facsimile: (415) 984-1978

Attorneys for Plaintiff CALIFORNIA
 NATURAL PRODUCTS, INC.

UNITED STATES DISTRICT COURT

EASTERN DISTRICT OF CALIFORNIA

CALIFORNIA NATURAL PRODUCTS, INC.,)
 a California corporation,)

Plaintiff,)

v.)

LIVING HARVEST CONSCIOUS)
 NUTRITION, INC., an Oregon corporation;)
 LIVING HARVEST FOODS, INC., an Oregon)
 corporation,)

Defendants.)

Case No. 2:09-CV-00956-LKK-GGH

**STIPULATION AND ORDER FOR
 EXTENSION OF TIME FOR
 DEFENDANTS LIVING HARVEST
 CONSCIOUS NUTRITION, INC. AND
 LIVING HARVEST FOODS, INC. TO
 RESPOND TO FIRST AMENDED
 COMPLAINT [LR 6-144, 83-143]**

1 WHEREAS, on March 27, 2009, LIVING HARVEST FOODS, INC. (“Living Harvest”)
2 filed an action against plaintiff CALIFORNIA NATURAL PRODUCTS, INC. (“CNP”) in the
3 United States District Court, District of Oregon (the “Oregon Action”);

4 WHEREAS, on April 8, 2009, plaintiff CNP filed this action against defendant Living
5 Harvest and also defendant LIVING HARVEST CONSCIOUS NUTRITION, INC. (jointly
6 referred to as “Defendants”) (this action is referred to as the “California Action”);

7 WHEREAS, on April 21, 2009, plaintiff CNP filed a Motion to Dismiss or, in the
8 Alternative, to Transfer the Oregon Action, which has been fully briefed by all parties and is
9 currently pending in the United States District Court, District of Oregon, before Honorable Anna
10 J. Brown;

11 WHEREAS, on July 6, 2009, Defendants filed a Motion to Dismiss and Alternative
12 Motion to Transfer the California Action, which covers substantially the same jurisdictional
13 issues as plaintiff CNP’s motion currently pending before the Oregon District Court;

14 WHEREAS, on July 21, 2009, plaintiff CNP filed a First Amended Complaint against
15 Defendants, thereby mooted Defendants’ Motion to Dismiss and Alternative Motion to
16 Transfer, and obligating Defendants, pursuant to the Federal Rules of Civil Procedure, to file a
17 new responsive pleading;

18 WHEREAS, at the parties’ suggestion, the Court in the California Action continued the
19 status conference in that matter from August 31, 2009 to October 19, 2009, pending resolution of
20 plaintiff CNP’s Motion to Dismiss, or in the Alternative, to Transfer the Oregon Action;

21 WHEREAS, the United States District Court, District of Oregon, has scheduled oral
22 argument on plaintiff CNP’s Motion to Dismiss, or in the Alternative, to Transfer the Oregon
23 Action for September 15, 2009, and the parties expect a ruling on the motion shortly thereafter;

24 WHEREAS, the parties agree that good cause exists to extend Defendants’ time to
25 respond to the First Amended Complaint, to allow the Oregon District Court to hear oral
26 argument and render a decision regarding plaintiff CNP’s Motion to Dismiss, or in the
27 Alternative, to Transfer the Oregon Action;

28

1 WHEREAS, the parties have agreed that Defendants' time to respond to the First
2 Amended Complaint shall be extended in order to allow the Oregon District Court to decide
3 plaintiff CNP's Motion to Dismiss or, in the Alternative, to Transfer before Defendants file and
4 serve their responsive pleading to the First Amended Complaint.

5 **IT IS HEREBY STIPULATED:**

6 Pursuant to Rule 6-144 and Rule 83-143 of the Local Rules of Practice for the United
7 States District Court for the Eastern District of California, plaintiff CALIFORNIA NATURAL
8 PRODUCTS, INC. ("Plaintiff") and defendants LIVING HARVEST CONSCIOUS
9 NUTRITION, INC. and LIVING HARVEST FOODS, INC. (jointly "Defendants"), by and
10 through their respective counsel, hereby stipulate to an extension of time within which
11 Defendants may answer or otherwise respond to Plaintiff's First Amended Complaint.
12 Accordingly, as Defendants' response to Plaintiff's First Amended Complaint is presently due to
13 be filed on or around August 31, 2009, it is hereby stipulated that such response shall be due ten
14 (10) days from the date the United States District Court, District of Oregon issues its order on
15 CNP's Motion to Dismiss, of in the Alternative, to Transfer the Oregon Action.

16 ///

17 ///

18 ///

19 ///

20 ///

21 ///

22 ///

23 ///

24 ///

25 ///

26 ///

27 ///

28 ///

1 Good cause exists to extend Defendants' time to respond to the First Amended
2 Complaint, to allow the Oregon District Court to hear oral argument and render a decision
3 regarding plaintiff CNP's Motion to Dismiss, of in the Alternative, to Transfer the Oregon
4 Action.

5 DATED: August 28, 2009

SEYFARTH SHAW LLP

6
7 By /s/ Kurt A. Kappes
Kurt A. Kappes
Robert B. Milligan
Attorneys for Defendants
8 LIVING HARVEST CONSCIOUS
9 NUTRITION, INC. and LIVING
10 HARVEST FOODS, INC.


11 DATED: August 28, 2009

SHOPOFF & CAVALLO, LLP

12
13 By /s/ Gregory S. Cavallo
Gregory S. Cavallo
Attorneys for Plaintiff
14 CALIFORNIA NATURAL PRODUCTS,
15 INC.

16 **IT IS SO ORDERED:**

17 Dated: August 31, 2009

18
19 
20 LAWRENCE K. KARLTON
21 SENIOR JUDGE
UNITED STATES DISTRICT COURT