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 INTERLINE BRANDS, INC.

17 **UNITED STATES DISTRICT COURT**  
 18 **NORTHERN DISTRICT OF CALIFORNIA**

19 CORY STOKES, on behalf of himself and all  
 20 others similarly situated,

21 Plaintiffs,

22 vs.

23 INTERLINE BRANDS, INC., CLEANSOURCE,  
 INC., and Does 1 through 50, inclusive,

24 Defendants.

CASE NO. C 12 5527 JSW (DMR)

~~(PROPOSED)~~ PROTECTIVE ORDER

25  
 26  
 27  
 28 47336280.1

**PROTECTIVE ORDER**

1 1. PURPOSES AND LIMITATIONS

2 Disclosure and discovery activity in this action are likely to involve production of  
3 confidential, proprietary, or private information for which special protection from public  
4 disclosure and from use for any purpose other than prosecuting this litigation may be warranted.  
5 Accordingly, the parties hereby stipulate to and petition the court to enter the following Protective  
6 Order. The parties acknowledge that this Order does not confer blanket protections on all  
7 disclosures or responses to discovery and that the protection it affords from public disclosure and  
8 use extends only to the limited information or items that are entitled to confidential treatment  
9 under the applicable legal principles. The parties further acknowledge, as set forth in Section 12.3,  
10 below, that this Protective Order does not entitle them to file confidential information under seal;  
11 Civil Local Rule 79-5 and General Order 62 set forth the procedures that must be followed and the  
12 standards that will be applied when a party seeks permission from the court to file material under  
13 seal.

14 2. DEFINITION

15 2.1. Challenging Party: a Party or Non-Party that challenges the designation of  
16 information or items under this Order.

17 2.2. "CONFIDENTIAL" Information or Items: information (regardless of how it is  
18 generated, stored or maintained) or tangible things that that the Producing Party in good faith  
19 contends constitutes or contains information that is confidential, sensitive, competitive, or  
20 potentially invasive of an individual's privacy interests, including the names, mailing addresses,  
21 email addresses, phone numbers and any other non-public, private information of or about putative  
22 class members, and their respective personnel and payroll data or information.

23 2.3. Counsel (without qualifier): Outside Counsel of Record and House Counsel (as  
24 well as their support staff).

25 2.4. Designating Party: a Party or Non-Party that designates information or items that it  
26 produces in disclosures or in responses to discovery as "CONFIDENTIAL" or "HIGHLY  
27 CONFIDENTIAL – ATTORNEYS' EYES ONLY."

28

1           2.5. Disclosure or Discovery Material: all items or information, regardless of the  
2 medium or manner in which it is generated, stored, or maintained (including, among other things,  
3 testimony, transcripts, and tangible things), that are produced or generated in disclosures or  
4 responses to discovery in this matter.

5           2.6. Expert: a person with specialized knowledge or experience in a matter pertinent to  
6 the litigation who has been retained by a Party or its Counsel to serve as an expert witness or as a  
7 consultant in this action.

8           2.7. “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY” Information or  
9 Items: means extremely sensitive “Confidential” Information or Items whose disclosure to  
10 another Party or non-party would create a substantial risk of injury to the Producing Party that  
11 could not be avoided by less restrictive means. Such information includes, but is not limited to,  
12 the commercial, pricing, costing, customer or marketing information relating to the Producing  
13 Party or the Producing Party’s actual or planned commercial products or services, or technical and  
14 research information that is extremely sensitive.

15           2.8. House Counsel: attorneys who are employees of a party to this action. House  
16 Counsel does not include Outside Counsel of Record or any other outside counsel.

17           2.9. Non-Party: any natural person, partnership, corporation, association, or other legal  
18 entity not named as a Party to this action.

19           2.10. Outside Counsel of Record: attorneys who are not employees of a party to this  
20 action but are retained to represent or advise a party to this action and have appeared in this action  
21 on behalf of that party or are affiliated with a law firm which has appeared on behalf of that party.

22           2.11. Party: any party to this action, including all of its officers, directors, employees,  
23 consultants, retained experts, and Outside Counsel of Record (and their support staffs).

24           2.12. Producing Party: a Party or Non-Party that produces Disclosure or Discovery  
25 Material in this action.

26           2.13. Professional Vendors: persons or entities that provide litigation support services  
27 (e.g., photocopying, videotaping, translating, preparing exhibits or demonstrations, and  
28 organizing, storing, or retrieving data in any form or medium) and their employees and

1 subcontractors.

2 2.14. Protected Material: any Disclosure or Discovery Material that is designated as  
3 “CONFIDENTIAL” or “HIGHLY CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

4 2.15. Receiving Party: a Party that receives Disclosure or Discovery Material from a  
5 Producing Party.

6 3. SCOPE

7 The protections conferred by this Stipulation and Order cover not only Protected Material  
8 (as defined above), but also (1) any information copied or extracted from Protected Material; (2)  
9 all copies, excerpts, summaries, or compilations of Protected Material; (3) any testimony,  
10 conversations, or presentations by Parties or their Counsel that might reveal Protected Material;  
11 and (4) the names, mailing addresses, email addresses, phone numbers and any other non-public,  
12 private information of or about putative class members provided by Defendants, including  
13 without limitation personnel and payroll information, to the extent it is established to be subject to  
14 discovery. However, the protections conferred by this Stipulation and Order do not cover the  
15 following information: (a) any information that is in the public domain at the time of disclosure to  
16 a Receiving Party or becomes part of the public domain after its disclosure to a Receiving Party as  
17 a result of publication not involving a violation of this Order, including becoming part of the  
18 public record through trial or otherwise; and (b) any information known to the Receiving Party  
19 prior to the disclosure or obtained by the Receiving Party after the disclosure from a source who  
20 obtained the information lawfully and under no obligation of confidentiality to the Designating  
21 Party. Any use of Protected Material at trial shall be governed by a separate agreement or order.

22 4. DURATION

23 Even after final disposition of this litigation, the confidentiality obligations imposed by this  
24 Order shall remain in effect until a Designating Party agrees otherwise in writing or a court order  
25 otherwise directs. Final disposition shall be deemed to be the later of (1) dismissal of all claims  
26 and defenses in this action, with or without prejudice; and (2) final judgment herein after the  
27 completion and exhaustion of all appeals, rehearings, remands, trials, or reviews of this action,  
28 including the time limits for filing any motions or applications for extension of time pursuant to

1 applicable law.

2 5. DESIGNATING PROTECTED MATERIAL

3 5.1. Exercise of Restraint and Care in Designating Material for Protection. Each Party  
4 or Non-Party that designates information or items for protection under this Order must take care to  
5 limit any such designation to specific material that qualifies under the appropriate standards. The  
6 Designating Party must designate for protection only those parts of material, documents, items, or  
7 oral or written communications that qualify – so that other portions of the material, documents,  
8 items, or communications for which protection is not warranted are not swept unjustifiably within  
9 the ambit of this Order.

10 Mass, indiscriminate, or routinized designations are prohibited. Designations that are  
11 shown to be clearly unjustified or that have been made for an improper purpose (e.g., to  
12 unnecessarily encumber or retard the case development process or to impose unnecessary  
13 expenses and burdens on other parties) expose the Designating Party to sanctions.

14 If it comes to a Designating Party's attention that information or items that it designated  
15 for protection do not qualify for protection, that Designating Party must promptly notify all other  
16 Parties that it is withdrawing the mistaken designation.

17 5.2. Manner and Timing of Designations. Except as otherwise provided in this Order  
18 (see, e.g., second paragraph of section 5.2(a) below), or as otherwise stipulated or ordered,  
19 Disclosure or Discovery Material that qualifies for protection under this Order must be clearly so  
20 designated before the material is disclosed or produced.

21 Designation in conformity with this Order requires:

22 (a) for information in documentary form (e.g., paper or electronic documents,  
23 but excluding transcripts of depositions or other pretrial or trial proceedings), that the Producing  
24 Party affix the legend "CONFIDENTIAL & SUBJECT TO CONFIDENTIALITY ORDER" or  
25 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY & SUBJECT TO  
26 CONFIDENTIALITY ORDER" to each page that contains protected material. If only a portion or  
27 portions of the material on a page qualifies for protection, the Producing Party also must clearly  
28 identify the protected portion(s) (e.g., by making appropriate markings in the margins).

1 A Party or Non-Party that makes original documents or materials available for inspection  
2 need not designate them for protection until after the inspecting Party has indicated which material  
3 it would like copied and produced. During the inspection and before the designation, all of the  
4 material made available for inspection shall be deemed "CONFIDENTIAL." After the inspecting  
5 Party has identified the documents it wants copied and produced, the Producing Party must  
6 determine which documents, or portions thereof, qualify for protection under this Order. Then,  
7 before producing the specified documents, the Producing Party must affix the "CONFIDENTIAL  
8 & SUBJECT TO CONFIDENTIALITY ORDER" or "HIGHLY CONFIDENTIAL –  
9 ATTORNEYS' EYES ONLY & SUBJECT TO CONFIDENTIALITY ORDER" legend to each  
10 page that contains Protected Material. If only a portion or portions of the material on a page  
11 qualifies for protection, the Producing Party also must clearly identify the protected portion(s)  
12 (e.g., by making appropriate markings in the margins).

13 (b) for testimony given in deposition or in other pretrial or trial proceedings,  
14 that the Designating Party identify on the record, before the close of the deposition, hearing, or  
15 other proceeding, all protected testimony, and further specify any portions of the testimony that  
16 qualify as "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY." When it is impractical  
17 to identify separately each portion of testimony that is entitled to protection, and when it appears  
18 that substantial portions of the testimony may qualify for protection, the Party or non-party that  
19 sponsors, offers, or gives the testimony may invoke on the record (before the deposition or  
20 proceeding is concluded) a right to have up to 60 days after receipt of the transcript to identify the  
21 specific portions of the testimony as to which protection is sought and to specify the level of  
22 protection being asserted ("CONFIDENTIAL" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
23 EYES ONLY"). Only those portions of the testimony that are appropriately designated for  
24 protection within the 60 days after receipt of the transcript shall be covered by the provisions of  
25 this Confidentiality Order. Transcript pages containing Protected Material must be separately  
26 bound by the court reporter, who must affix on each such page the legend "CONFIDENTIAL &  
27 SUBJECT TO CONFIDENTIALITY ORDER" or "HIGHLY CONFIDENTIAL –  
28 ATTORNEYS' EYES ONLY & SUBJECT TO CONFIDENTIALITY ORDER," as instructed by

1 the Party or non-party offering or sponsoring the witness or presenting the testimony.

2 (c) for information produced in some form other than documentary and for any  
3 other tangible items, that the Producing Party affix in a prominent place on the exterior of the  
4 container or containers in which the information or item is stored the legend "CONFIDENTIAL &  
5 SUBJECT TO CONFIDENTIALITY ORDER" or "HIGHLY CONFIDENTIAL – ATTORNEYS'  
6 EYES ONLY & SUBJECT TO CONFIDENTIALITY ORDER." If only a portion or portions of  
7 the information or item warrant protection, the Producing Party, to the extent practicable, shall  
8 identify the protected portion(s), specifying whether they qualify as "CONFIDENTIAL" or as  
9 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY."

10 5.3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to  
11 designate qualified information or items as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL -  
12 ATTORNEYS' EYES ONLY" does not, standing alone, waive the Designating Party's right to  
13 secure protection under this Order for such material. Upon timely correction of a designation, the  
14 Receiving Party must make reasonable efforts to assure that the material is treated in accordance  
15 with the provisions of this Order.

16 6. CHALLENGING CONFIDENTIALITY DESIGNATIONS

17 6.1. Timing of Challenges. Any Party or Non-Party may challenge a designation of  
18 confidentiality at any time. Unless a prompt challenge to a Designating Party's confidentiality  
19 designation is necessary to avoid foreseeable, substantial unfairness, unnecessary economic  
20 burdens, or a significant disruption or delay of the litigation, a Party does not waive its right to  
21 challenge a confidentiality designation by electing not to mount a challenge promptly after the  
22 original designation is disclosed.

23 6.2. Meet and Confer. The Challenging Party shall initiate the dispute resolution  
24 process by providing written notice of each designation it is challenging and describing the basis  
25 for each challenge. To avoid ambiguity as to whether a challenge has been made, the written  
26 notice must recite that the challenge to confidentiality is being made in accordance with this  
27 specific paragraph of the Protective Order. The parties shall attempt to resolve each challenge in  
28 good faith and must begin the process by conferring directly (in voice to voice dialogue; other

1 forms of communication are not sufficient) within 14 days of the date of service of notice. In  
2 conferring, the Challenging Party must explain the basis for its belief that the confidentiality  
3 designation was not proper and must give the Designating Party an opportunity to review the  
4 designated material, to reconsider the circumstances, and, if no change in designation is offered, to  
5 explain the basis for the chosen designation. A Challenging Party may proceed to the next stage of  
6 the challenge process only if it has engaged in this meet and confer process first or establishes that  
7 the Designating Party is unwilling to participate in the meet and confer process in a timely  
8 manner.

9 6.3. Judicial Intervention. If the Parties cannot resolve a challenge, including a  
10 challenge to the designation of a deposition transcript or any portions thereof, without court  
11 intervention, the Challenging Party shall file and serve a motion to remove confidentiality under  
12 Civil Local Rule 7 (and in compliance with Civil Local Rule 79-5 and General Order 62, if  
13 applicable) within 21 days of the initial notice of challenge or within 14 days of the parties  
14 agreeing that the meet and confer process will not resolve their dispute, whichever is earlier. Each  
15 such motion must be accompanied by a competent declaration affirming that the movant has  
16 complied with the meet and confer requirements imposed in the preceding paragraph. Failure by  
17 the Challenging Party to make such a motion including the required declaration within 21 days (or  
18 14 days, if applicable) shall automatically waive the challenge to the confidentiality designation  
19 for each challenged designation.

20 The burden of persuasion in any such challenge proceeding shall be on the Designating  
21 Party. Frivolous challenges, and those made for an improper purpose (e.g., to harass or impose  
22 unnecessary expenses and burdens on other parties) may expose the Challenging Party to  
23 sanctions. All parties shall continue to afford the material in question the level of protection to  
24 which it is entitled under the Producing Party's designation until the court rules on the challenge.

25 7. ACCESS TO AND USE OF PROTECTED MATERIAL

26 7.1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or  
27 produced by another Party or by a Non-Party in connection with this case only for prosecuting,  
28 defending, or attempting to settle this litigation. Such Protected Material may be disclosed only to

1 the categories of persons and under the conditions described in this Order. When the litigation  
2 has been terminated, a Receiving Party must comply with the provisions of section 13 below  
3 (FINAL DISPOSITION).

4 Protected Material must be stored and maintained by a Receiving Party at a location and in  
5 a secure manner that ensures that access is limited to the persons authorized under this Order.

6 7.2. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered  
7 by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any  
8 information or item designated "CONFIDENTIAL" only to:

9 (a) the Receiving Party's Outside Counsel of Record in this action, as well as  
10 employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the  
11 information for this litigation and who have signed the "Acknowledgment and Agreement to Be  
12 Bound" that is attached hereto as Exhibit A;

13 (b) the officers, directors, and employees (including House Counsel) of the  
14 Receiving Party to whom disclosure is reasonably necessary for this litigation and who have  
15 signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

16 (c) Experts (as defined in this Order) of the Receiving Party to whom  
17 disclosure is reasonably necessary for this litigation and who have signed the "Acknowledgment  
18 and Agreement to Be Bound" (Exhibit A);

19 (d) the court and its personnel;

20 (e) court reporters and their staff, professional jury or trial consultants, mock  
21 jurors, and Professional Vendors to whom disclosure is reasonably necessary for this litigation and  
22 who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);

23 (f) during their depositions, witnesses in the action to whom disclosure is  
24 reasonably necessary and who have signed the "Acknowledgment and Agreement to Be Bound"  
25 (Exhibit A), unless otherwise agreed by the Designating Party or ordered by the court. Pages of  
26 transcribed deposition testimony or exhibits to depositions that reveal Protected Material must be  
27 separately bound by the court reporter and may not be disclosed to anyone except as permitted  
28 under this Protective Order.

1 (g) the author or recipient of a document containing the information or a  
2 custodian or other person who otherwise possessed or knew the information.

3 7.3 Disclosure of "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY"  
4 Information or Items. Unless otherwise ordered by the Court or permitted in writing by the  
5 Designating Party, a Receiving Party may disclose any information or item designated "HIGHLY  
6 CONFIDENTIAL – ATTORNEYS' EYES ONLY" only to:

7 (a) the Receiving Party's Outside Counsel of record in this action as well as  
8 employees of said Outside Counsel to whom it is reasonably necessary to  
9 disclose the information for this litigation;

10 (b) the Receiving Party's House Counsel;

11 (c) Experts (as defined in this Order) (1) to whom disclosure is reasonably  
12 necessary for this litigation, and (2) who have signed the "Acknowledgement and Agreement to  
13 Be Bound" that is attached hereto as Exhibit A;

14 (d) the Court and its personnel;

15 (e) court reporters, videographers, their staffs, and professional vendors to  
16 whom disclosure is reasonably necessary for this litigation and who have signed the  
17 "Acknowledgement and Agreement to Be Bound" that is attached hereto as Exhibit A; and

18 (f) the author of the document or the original source of the information.

19 8. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN OTHER  
20 LITIGATION

21 If a Party is served with a subpoena or a court order issued in other litigation that compels  
22 disclosure of any information or items designated in this action as "CONFIDENTIAL" or  
23 "HIGHLY CONFIDENTIAL – ATTORNEYS' EYES ONLY," that Party must:

24 (a) promptly notify in writing the Designating Party (by e-mail and fax, if  
25 possible) immediately and in no event more than three (3) court days after receiving the subpoena  
26 or order.. Such notification shall include a copy of the subpoena or court order;

27 (b) promptly notify in writing the party who caused the subpoena or order to  
28 issue in the other litigation that some or all of the material covered by the subpoena or order is

1 subject to this Protective Order. Such notification shall include a copy of this Protective Order;  
2 and

3 (c) cooperate with respect to all reasonable procedures sought to be pursued by  
4 the Designating Party whose Protected Material may be affected.

5 The Receiving Party will make no disclosure of any Protected Material prior to the  
6 deadline set forth in the subpoena. If the Designating Party timely seeks a protective order, the  
7 Party served with the subpoena or court order shall not produce any information designated in this  
8 action as "CONFIDENTIAL" before a determination by the court from which the subpoena or  
9 order issued, unless the Party has obtained the Designating Party's permission. The Designating  
10 Party shall bear the burden and expense of seeking protection in that court of its confidential  
11 material – and nothing in these provisions should be construed as authorizing or encouraging a  
12 Receiving Party in this action to disobey a lawful directive from another court.

13 9. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE PRODUCED IN THIS  
14 LITIGATION

15 (a) The terms of this Order are applicable to information produced by a Non-  
16 Party in this action and designated as "CONFIDENTIAL" or "HIGHLY CONFIDENTIAL –  
17 ATTORNEYS' EYES ONLY." Such information produced by Non-Parties in connection with  
18 this litigation is protected by the remedies and relief provided by this Order. Nothing in these  
19 provisions should be construed as prohibiting a Non-Party from seeking additional protections.

20 (b) In the event that a Party is required, by a valid discovery request, to produce  
21 a Non-Party's confidential information in its possession, and the Party is subject to an agreement  
22 with the Non-Party not to produce the Non-Party's confidential information, then the Party shall:

23 (1) promptly notify in writing the Requesting Party and the Non-Party  
24 that some or all of the information requested is subject to a confidentiality agreement with a Non-  
25 Party;

26 (2) promptly provide the Non-Party with a copy of the Protective Order  
27 in this litigation, the relevant discovery request(s), and a reasonably specific description of the  
28 information requested; and

1 (3) make the information requested available for inspection by the Non-  
2 Party.

3 (c) If the Non-Party fails to object or seek a protective order from this court  
4 within 14 days of receiving the notice and accompanying information, the Receiving Party may  
5 produce the Non-Party's confidential information responsive to the discovery request. If the Non-  
6 Party timely seeks a protective order, the Receiving Party shall not produce any information in its  
7 possession or control that is subject to the confidentiality agreement with the Non-Party before a  
8 determination by the court.<sup>1</sup> Absent a court order to the contrary, the Non-Party shall bear the  
9 burden and expense of seeking protection in this court of its Protected Material.

10 10. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

11 If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected  
12 Material to any person or in any circumstance not authorized under this Protective Order, the  
13 Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized  
14 disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c)  
15 inform the person or persons to whom unauthorized disclosures were made of all the terms of this  
16 Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to  
17 Be Bound" that is attached hereto as Exhibit A.

18 11. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED  
19 MATERIAL

20 Pursuant to Federal Rule of Evidence 502, the inadvertent production or disclosure of any  
21 document or thing otherwise protected by the attorney-client privilege or attorney work product  
22 immunity shall not operate as a waiver of any such privilege or immunity if, after learning of the  
23 inadvertent production or disclosure, the party who made the inadvertent production or disclosure  
24 sends to any Receiving Party a written request for the return or destruction of such documents or  
25 things. Upon receiving such a request, the Receiving Party shall immediately take all necessary

26 \_\_\_\_\_  
27 <sup>1</sup> The purpose of this provision is to alert the interested parties to the existence of  
28 confidentiality rights of a Non-Party and to afford the Non-Party an opportunity to protect its  
confidentiality interests in this court.

1 steps to return or destroy such documents or things, including all copies and electronic copies, and  
2 make a written certification to the Producing Party of such compliance. If the Receiving Party  
3 disclosed the inadvertently produced document or thing before being notified by the Producing  
4 Party, it must take reasonable steps to retrieve the inadvertently produced document or thing.

5 Additionally:

6 (a) If the Receiving Party wishes to contest that any such inadvertently  
7 produced document or thing is protected by the attorney-client privilege or by attorney work-  
8 product immunity, the Receiving Party shall so notify the Producing Party in writing when the  
9 document or thing is returned to the Producing Party. Within 10 court days after receiving such  
10 notification, the Producing Party shall provide to the Requesting Party a list identifying all such  
11 returned documents and things and stating the basis for the claim of privilege or immunity.  
12 Within five (5) court days after receiving such a list, and after the parties have attempted to resolve  
13 the dispute through a meaningful meet-and-confer, the Receiving Party may file a motion to  
14 compel production of such documents and things, the protection of which is still disputed. If such  
15 a motion is filed, the Producing Party shall have the burden of proving that the documents and  
16 things in dispute are protected by the attorney-client privilege or by attorney work-product  
17 immunity.

18 (b) With respect to documents and things subsequently generated by a  
19 Receiving Party, which documents and things contain information derived from such inadvertently  
20 produced documents and things, if the Receiving Party does not notify the Producing Party that  
21 the Requesting Party disputes the claims of attorney-client privilege or attorney work-product  
22 immunity, the Receiving Party shall immediately destroy or redact the derivative documents and  
23 things in a manner such that the derivative information cannot in any way be retrieved or  
24 reproduced.

25 (c) In no event, however, shall the return or destruction of demanded  
26 documents be delayed or refused because of a Receiving Party's objection to the demand or by the  
27 filing of a motion to compel. Furthermore, until and unless such motion to compel is granted, the  
28 Receiving Party shall neither quote nor substantively reveal any privileged information contained

1 within the documents or things at issue, either prior to or following their return, except to the  
2 extent such information is reflected in an appropriate privilege log.

3 12. MISCELLANEOUS

4 12.1. Right to Further Relief. Nothing in this Order abridges the right of any person to  
5 seek its modification by the court in the future.

6 12.2. Right to Assert Other Objections. By stipulating to the entry of this Protective  
7 Order no Party waives any right it otherwise would have to object to disclosing or producing any  
8 information or item on any ground not addressed in this Protective Order. Similarly, no Party  
9 waives any right to object on any ground to use in evidence of any of the material covered by this  
10 Protective Order.

11 12.3. Filing Protected Material. Without written permission from the Designating Party  
12 or a court order secured after appropriate notice to all interested persons, a Party may not file in  
13 the public record in this action any Protected Material. A Party that seeks to file under seal any  
14 Protected Material must comply with Civil Local Rule 79-5 and General Order 62. Protected  
15 Material may only be filed under seal pursuant to a court order authorizing the sealing of the  
16 specific Protected Material at issue. Pursuant to Civil Local Rule 79-5 and General Order 62, a  
17 sealing order will issue only upon a request establishing that the Protected Material at issue is  
18 privileged, protectable as a trade secret, or otherwise entitled to protection under the law. If a  
19 Receiving Party's request to file Protected Material under seal pursuant to Civil Local Rule 79-  
20 5(d) and General Order 62 is denied by the court, then the Receiving Party may file the  
21 information in the public record pursuant to Civil Local Rule 79-5(e) unless otherwise instructed  
22 by the court.

23 12.4. Stipulation Binding Upon Execution and For Limited Duration. By signing this  
24 Confidentiality Order, the Parties agree to be bound by its terms, upon execution by all Parties,  
25 even if the Confidentiality Order is not entered by the Court, subject to the further stipulation by  
26 the Parties and/or order of the Court regarding the treatment of any documents or information that  
27 was provided pursuant to its terms. Nothing in this Confidentiality Order constitutes any type of  
28

1 express or implied waiver or limitation by the Parties of any of their rights under the Federal Rules  
2 of Civil Procedure, the Federal Rules of Evidence or the Court's Local Rules.

3 13. FINAL DISPOSITION

4 Within 60 days after the final disposition of this action, as defined in paragraph 4, each  
5 Receiving Party must return all Protected Material to the Producing Party or destroy such material.  
6 As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations,  
7 summaries, and any other format reproducing or capturing any of the Protected Material. Whether  
8 the Protected Material is returned or destroyed, the Receiving Party must submit a written  
9 certification to the Producing Party (and, if not the same person or entity, to the Designating Party)  
10 by the 60 day deadline that (1) identifies (by category, where appropriate) all the Protected  
11 Material that was returned or destroyed and (2) affirms that the Receiving Party has not retained  
12 any copies, abstracts, compilations, summaries or any other format reproducing or capturing any  
13 of the Protected Material. Notwithstanding this provision, Counsel are entitled to retain an archival  
14 copy of all pleadings, motion papers, trial, deposition, and hearing transcripts, legal memoranda,  
15 correspondence, deposition and trial exhibits, expert reports, attorney work product, and  
16 consultant and expert work product, even if such materials contain Protected Material. Any such  
17 archival copies that contain or constitute Protected Material remain subject to this Protective Order  
18 as set forth in Section 4 (DURATION).

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21 IT IS SO ORDERED.

22  
23 Date: August 16, 2013

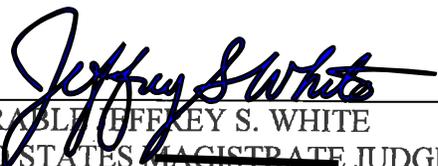
24   
25 HONORABLE JEFFREY S. WHITE  
26 UNITED STATES MAGISTRATE JUDGE  
27 DISTRICT

EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

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I, \_\_\_\_\_ [print or type full name], of \_\_\_\_\_  
[print or type full address], declare under penalty of perjury that I have read in its entirety and understand the Protective Order that was issued by the United States District Court for the Northern District of California on [date] in the case of Stokes v. Interline Brands, Inc., U.S. District Court, Northern District of California, Case No. C 12 5527 JSW. I agree to comply with and to be bound by all the terms of this Protective Order and I understand and acknowledge that failure to so comply could expose me to sanctions and punishment in the nature of contempt. I solemnly promise that I will not disclose in any manner any information or item that is subject to this Protective Order to any person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the Northern District of California for the purpose of enforcing the terms of this Protective Order, even if such enforcement proceedings occur after termination of this action.

I hereby appoint \_\_\_\_\_ [print or type full name] of \_\_\_\_\_ [print or type full address and telephone number] as my California agent for service of process in connection with this action or any proceedings related to enforcement of this Protective Order.

Date: \_\_\_\_\_

City and State where sworn and signed: \_\_\_\_\_

Printed name: \_\_\_\_\_

Signature: \_\_\_\_\_