

**IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF TENNESSEE**

<b>JACQUELYN D. AJOSE,</b>	)	
<b>KATHY SMITH, SHARON KURTZ,</b>	)	
<b>PATRICIA EVETT, &amp; JAMES L.</b>	)	
<b>BOYLAND</b>	)	<b>No. 14-cv-01707</b>
<b>on behalf of themselves and all others</b>	)	
<b>similarly situated,</b>	)	
	)	
<b>Plaintiffs,</b>	)	<b>CLASS ACTION</b>
<b>v.</b>	)	
	)	
<b>INTERLINE BRANDS, INC.,</b>	)	
	)	
<b>Defendant.</b>	)	

**CLASS ACTION SETTLEMENT AGREEMENT AND RELEASE**

Plaintiffs, Jacquelyn D. Ajose, Kathy Smith, Sharon Kurtz, Patricia Evett and James L. Boyland (collectively, “Plaintiffs”), who are acting as the Class Representatives on behalf of themselves and all other Settlement Class Members of the Settlement Class set forth herein, on the one hand, and Interline Brands, Inc. (“Interline”), on the other hand, stipulate and agree, pursuant to the terms and conditions set forth in this Class Action Settlement Agreement and Release, to settle, dismiss, and compromise fully and finally the claims against Interline for alleged defects in and failures of certain DuraPro™ branded Toilet Connectors (as defined herein) distributed and/or sold by Interline.

**DEFINED TERMS**

As used in this Agreement, as well as in the notices and other documents contemplated by this Agreement, and any amendments thereto, the following terms shall have the meanings set forth below. Terms used in the singular shall be deemed to include the plural and vice versa.

- 1. “**Agreement**” shall mean this Class Action Settlement Agreement and Release, including the notices and other documents attached as exhibits to this Agreement, and any amendments thereto.

2. “**Claimant**” shall mean a Settlement Class Member (including Class Representatives) tendering a Claim Form seeking a Property Damage Remedy from the Common Damages Fund under the terms of this Agreement, including any Person entitled to make a Settlement Claim on behalf of a Settlement Class Member to the extent permissible by law or this Agreement, such as (but not limited to) a subrogated insurance carrier or a Person who claims contribution, indemnity, equitable subrogation or some other theory of liability against Interline based on claims for alleged failures of Coupling Nuts on Toilet Connectors within the scope of this Agreement. The term “Claimant” shall also include any Person who elects to submit a claim for the Replacement Remedy from the Common Damages Fund pursuant to the terms of this Agreement.

3. “**Claims Administrator**” shall mean the Person appointed by the Court to administer the claims process provided for in paragraphs 108 to 118 of this Agreement. This Person may be the same as the Notice Provider. If so, these terms are utilized interchangeably herein.

4. “**Claims Form**” shall mean the official form approved by the Court for use by the Settlement Class Members in making claims. The Parties propose using the claims form attached hereto as Exhibit D.

5. “**Claims Period**” shall mean the period of time for Settlement Class Members to file Settlement Claims as described in paragraphs 116 to 118 of this Agreement.

6. “**Class Action**” shall mean and refer to the putative class action lawsuit filed in the United States District Court for the Middle District of Tennessee as *Ajose, et al. v. Interline Brands, Inc.*, Case No. 14-cv-01707.

7. “**Class Counsel**” shall mean Berman Tabacco; Saltz, Mongeluzzi, Barrett & Bendesky, P.C.; Gustafson Gluek PLLC; Fine, Kaplan & Black, R.P.C.; Berger & Montague, P.C.; Sauder Schelkopf LLC; Lite DePalma Greenberg, LLC; Greg Coleman Law P.C.; and Hagens Berman Sobol Shapiro LLP, together with any other attorneys or firms specifically

designated as Class Counsel by the Court, prior to the payment of the award/judgment of legal costs/expenses (including attorneys' fees) contemplated by this Agreement.

8. “**Class Counsel Chair**” shall mean and refer to Simon Bahne Paris and Patrick Howard at Saltz, Mongeluzzi, Barrett & Bendesky, P.C.

9. “**Class Representatives**” shall mean the Plaintiffs and proposed class representatives Jacqueline D. Ajose, Kathy Smith, Sharon Kurtz, Patricia Evett, and James L. Boyland, individually and on behalf of all Settlement Class Members.

10. “**Co-Lead Counsel**” shall mean Simon Paris and Patrick Howard of Saltz, Mongeluzzi, Barrett, & Bendesky, P.C; Joseph G. Sauder and Matthew D. Schelkopf of Sauder Schelkopf LLC; and Shanon J. Carson and Glen L. Abramson of Berger & Montague, P.C.

11. “**Common Damages Fund**” shall mean and refer to the sum of \$16.5 million, which represents the full amount of the payment obligations by Interline, on behalf of itself and all Released Parties, including without limitation all amounts to be paid for Settlement Notice pursuant to the Notice Plan, administration costs/expenses of the Claims Administrator and/or Notice Provider, legal costs/expenses of Class Counsel (including without limitation any attorneys' fee award/judgment), Service Awards, Replacement Claims and Damage Claims.

12. “**Complaint**” means the First Amended Class Action Complaint for Injunctive Relief and Damages filed by Plaintiffs in *Ajose, et al. v. Interline Brands, Inc.*, Case No. 14-cv-01707 [ECF No. 81].

13. “**Coupling Nut**” shall mean the plastic nut on a Toilet Connector that Interline imported from China through Linx Ltd. or MTD (USA) Corp. for distribution and/or sale in the United States with (i) a six-ribbed design or (ii) a bi-wing design.

14. “**Counsel for Interline**” shall mean Mark A. Salky, Esq. and Timothy A. Kolaya, Esq., of Greenberg Traurig, P.A. and John R. Tarpley, Esq. of Lewis, Thomason, King, Krieg & Waldrop, P.C.

15. “**Court**” shall mean the United States District Court for the Middle District of Tennessee, in which *Ajose, et al. v. Interline Brands, Inc.*, Case No. 4:14-cv-01707 is pending.

16. “**Damage Claims**” shall mean and refer to Claimants’ claims for the Property Damage Remedy.

17. “**Damage Claims Period**” shall mean four years from the Final Order and Judgment.

18. “**Effective Date**” shall have the meaning in paragraph 123.

19. “**Excluded Persons**” shall have the meaning in paragraph 63.

20. “**Final Order and Judgment**” shall mean the Final Order and Judgment of the Court approving the settlement provided for in this Agreement.

21. “**Final Fairness Hearing**” shall mean the hearing conducted by the Court in connection with the determination of the fairness, adequacy, and reasonableness of this Agreement under Rule 23 of the Federal Rules of Civil Procedure.

22. “**Interline**” shall mean Interline Brands, Inc.

23. “**Notice Date**” shall mean the date on which the Notice Provider has implemented all facets of the Notice Plan approved by the Court in the Preliminary Approval Order, which shall not be later than 15 days after the Court’s entry of the Preliminary Approval Order, unless otherwise ordered by the Court.

24. “**Notice Plan**” shall have the meaning ascribed to it in paragraphs 72 to 85. Unless otherwise provided by the Preliminary Approval Order, the Notice Provider shall execute the Notice Plan within 15 days of the Court’s entry of the Preliminary Approval Order, unless otherwise ordered by the Court.

25. “**Notice Provider**” shall mean the Person appointed by the Court to administer the Notice Plan. The Notice Provider may be the same Person as the Claims Administrator. If so, these terms are utilized interchangeably herein.

26. “**Objection Deadline**” shall mean the date set by the Court for Settlement Class Members to deliver written notice regarding their objections to this Agreement or intent to be heard at the Final Fairness Hearing. All objections must be in the form prescribed by the Court, and must be filed with the Court and served on Class Counsel Chair and Counsel for Interline within 60 days of the Notice Date, unless otherwise ordered by the Court.

27. “**Opt Out Deadline**” shall mean the date set by the Court for any Settlement Class Member to deliver written notice regarding their intention to opt out of this Agreement. All requests for exclusion (*i.e.*, opt-outs) from the Settlement Class must be in the form prescribed by the Court, and must be served on Class Counsel Chair, Counsel for Interline and the Claims Administrator within 60 days of the Notice Date, unless otherwise ordered by the Court.

28. “**Opt Out Form**” shall mean the form or letter by which Settlement Class Members may opt out of the Settlement Class pursuant to paragraphs 86 to 90.

29. “**Person**” means any individual or entity, public or private, including a subrogated insurance carrier or other Person who claims contribution, indemnity, equitable subrogation, or some other theory of liability against Interline arising from the Toilet Connector.

30. “**Plaintiffs**” means Jacquelyn D. Ajose, Kathy Smith, Sharon Kurtz, Patricia Evett and James L. Boyland.

31. “**Preliminary Approval Order**” shall mean the Court’s Order, as provided for in paragraph 70, which shall conditionally approve this Agreement between the Settlement Class and Interline, conditionally certify a class action for settlement purposes only, approve the Claims Administrator, approve the Settlement Notice, approve the Notice Plan, establish the Opt-Out and Objection Deadlines, and fix a hearing date for the Final Fairness Hearing.

32. “**Property Damage Remedy**” shall mean the remedy provided to Settlement Class Members allowing the recovery of not less than \$4, but not more than 30% of their reasonably proven Property Damage caused by, and related to, an alleged failure of a Toilet Connector subject to the conditions in paragraph 118 below.

33. “**Property Damage**” is defined to mean physical damage to a residence or other structure or to tangible personal property, along with alternative living expenses and related damages arising out of physical damage to property, caused by a failure of the Coupling Nut on the Toilet Connectors.

34. “**Released Claims**” shall have the meaning ascribed to it in paragraphs 96 to 103.

35. “**Released Parties**” shall have the meaning ascribed to it in paragraphs 96 to 103.

36. “**Releasing Parties**” shall have the meaning ascribed to it in paragraphs 96 to 103.

37. “**Replacement Claims**” shall mean and refer to claims related to the replacement of a Toilet Connector that was installed in a residence or other structure, regardless of whether the Toilet Connector has failed.

38. “**Replacement Claim Period**” shall mean two years from the Final Order and Judgment.

39. “**Replacement Remedy**” shall mean the remedy provided to Settlement Class Members for reimbursement of \$4 per replacement toilet connector, not to exceed five replacement toilet connectors per residence or other structure (a maximum total of \$20 per household) subject to the conditions in paragraph 117 below.

40. “**Settlement Claim**” shall mean a claim made by a Settlement Class Member.

41. “**Settlement Class Members**” shall mean all members of the Settlement Class.

42. “**Settlement Class**” shall mean all Persons who own or owned, or lease or leased, a residence or other structure located in the United States containing a Toilet Connector, or who otherwise suffer or have suffered Property Damage from the failure of a Coupling Nut on a Toilet Connector.

43. “**Settlement Notice**” shall mean the notice or notices required by the Notice Plan approved by the Court for providing notice of this Agreement as set forth in paragraphs 72 to 84.

44. “**Settling Parties**” shall mean Interline and the Settlement Class Members.

45. “**Service Awards**” shall mean the award/judgment, in an amount not to exceed \$5,000, that Class Counsel shall seek from the Court for each Class Representative, such amount to be paid from the Common Damages Fund for the Class Representatives’ efforts in representing the interests of the Settlement Class.

46. “**Special Master**” shall mean the Person appointed pursuant to paragraph 110.

47. “**Toilet Connector**” shall mean and refer to any water supply line with a Coupling Nut used to connect a toilet fill valve to a water supply source sold by Interline in the United States under the “DuraPro™” brand, regardless of whether the “DuraPro™” label remains or remained affixed, which supply lines Interline imported from China through Linx, Ltd. or MTD (USA) Corp.

48. “**Total Settlement Amount**” shall mean the sum of \$16.5 million, which will be paid to create the Common Damages Fund in accordance with the funding provisions set forth in this Agreement, and represents the full amount of the payment obligations of Interline, on behalf of itself and all Released Parties. Under no circumstances or interpretation of this Agreement shall Interline’s financial obligation exceed \$16.5 million.

### **SUMMARY OF LITIGATION**

49. Plaintiffs and proposed Class Representatives filed a Complaint seeking damages suffered by themselves and a putative nationwide class resulting from the purchase, installation, inadequate instructions/warnings, failure and/or potential failure of allegedly defective Coupling Nuts on Toilet Connectors, as well as legal costs/expenses (including an attorneys’ fee award/judgment) and injunctive, declaratory and other equitable relief.

50. Class Counsel have conducted a thorough investigation of the facts and law relating to the matters set forth in the pleadings and have retained experts necessary to assist the Settlement Class Members in pursuing this Agreement and the claims process.

51. Without conceding any lack of merit of any of their claims, Plaintiffs and Class Counsel have concluded that it is in the best interests of the Settlement Class to settle the Class Action on the terms set forth herein, and that the settlement with Interline and the

Released Parties embodied in this Agreement is fair, reasonable, adequate and in the best interests of the Settlement Class.

52. Interline denies any fault, wrongdoing, illegal conduct, or liability whatsoever on its part, or any defect in the Toilet Connectors, including the Coupling Nut, and has asserted numerous defenses to the facts and causes of action alleged in the Class Action. Interline also denies any and all allegations of fault, wrongdoing, defect or liability made by any of the plaintiffs in other actions or claims asserted against it concerning the Toilet Connectors. Interline relies on the provisions of this Agreement that the settlement embodied herein shall not be construed as or deemed to be evidence of an admission or a concession on the part of Interline of any fault, wrongdoing, or liability whatsoever, or of any defect in the Toilet Connectors, including the Coupling Nut, or that any of the allegations in the Complaint in the Class Action or any similar litigation are true. Without conceding any lack of merit in their defenses, Interline considers it desirable to enter into this Agreement to avoid further expense, to dispose of burdensome and protracted litigation, and to avoid the uncertain outcome of proceeding in the Class Action and similar cases.

53. Throughout this litigation, Interline raised, and continues to raise, defenses that could have precluded all recovery for Settlement Class Members if it ultimately succeeded on those defenses. Interline also contends that problems with, or failures of, the Toilet Connectors were caused by improper installation and misuse and/or by the fact that many failed Toilet Connectors had exceeded their expected lifespan and were not caused by design or manufacturing defects in the Toilet Connectors.

54. Interline also argued that the failure rate of the Toilet Connectors was extremely low. Interline specifically contended that the known rate of Toilet Connector failures was about 0.02 percent of the Toilet Connectors sold in the United States, which in and of itself is evidence of a lack of any defect in the products.

55. Without conceding any lack of merit of any of its defenses or arguments, Interline has concluded that it is in its best interest to settle the differences, disagreements, and suits



upon the terms and conditions set forth below, and in so doing, does not admit, concede, or imply that it has done anything wrong or legally actionable, or that the allegations of deficiencies in the Toilet Connectors have merit.

56. In addition to the representations above, the Settling Parties further agree that the positions as stated herein form the basis for this settlement and are integral to the Settling Parties' Agreement.

57. The Settling Parties disagree about the rights, obligations, benefits, and detriments that each of them has or may have as set forth in the claims brought in the Class Action.

58. The Settling Parties have engaged in extensive, difficult, complex and arm's-length negotiations regarding the settlement of claims involving the Toilet Connectors. There was no certainty or assurance of a settlement. The Settling Parties conducted extensive discovery, including Interline's production of several hundred thousand pages of documents, over fifteen depositions, engaged in numerous disputes about written discovery and privilege assertions, conducted class certification expert discovery and concluded all briefing relating to class certification, including extensive expert analysis and legal challenges to those experts.

59. The settlement was finally achieved after multiple all day mediation sessions, including a more recent mediation with a private mediator, Robert Kaplan, on October 18, 2017. The Settling Parties' substantial settlement negotiations following that mediation have culminated in this Agreement.

60. The following insurers, asserting subrogation claims against Interline arising from failed Toilet Connectors were represented by separate independent counsel, other than Class Counsel, during the October 18, 2017 Mediation with Robert Kaplan, including all negotiations that occurred thereafter: Allstate Indemnity Company, Allstate Insurance Company, Allstate Fire and Casualty Insurance Company, Allstate New Jersey Insurance Company, Allstate Property and Casualty Insurance Company, Allstate Texas Lloyd's, Inc., Allstate Vehicle and Property Insurance Company, American Fire and Casualty Company,

Auto Club Family Insurance Company, Auto Club Indemnity Company, California Automobile Insurance Company, California Capital Insurance Company, Castle Key Indemnity Company, The Cincinnati Insurance Company, Consolidated Insurance Company, CSAA Fire & Casualty Insurance Company f/k/a ACA Insurance Company d/b/a AAA Fire & Casualty Insurance Company, CSAA Fire & Casualty Insurance Company f/k/a ACA Insurance Company dba AAA Nevada Fire & Casualty Insurance Company, CSAA Insurance Exchange f/k/a AAA Northern California Nevada Utah Insurance Exchange, CSAA Mid-Atlantic Insurance Company of New Jersey, Eagle West Insurance Company, Encompass Insurance Company, Encompass Indemnity Company, Erie Insurance Company, Erie Insurance Exchange, First American Property & Casualty Insurance Company, First American Specialty Insurance Company, The First Liberty Insurance Corporation, First National Insurance Company of America, Garrison Property and Casualty Insurance Company, Interinsurance Exchange of The Automobile Club, Liberty Insurance Corporation, Liberty Mutual Fire Insurance Company, Liberty Mutual Insurance Company, Liberty Mutual Mid-Atlantic Insurance Company, Liberty Personal Insurance Company, LM General Insurance Company, LM Insurance Corporation, Mercury Casualty Company, Safeco Insurance Company of Illinois, Safeco Insurance Company of Indiana, United Services Automobile Association, United Services Automobile Association, USAA Casualty Insurance Company, USAA General Indemnity Company, USAA Texas Lloyd's Company, Westfield Insurance Company, Westfield National Insurance Company, American Family Mutual Insurance Company, Farmers Insurance Company of Arizona, Farmers Insurance Exchange, Fire Insurance Exchange, Foremost Insurance Company Grand Rapids, Michigan, Foremost Lloyd's of Texas, Foremost Property and Casualty Insurance Company, Illinois Farmers Insurance Company, Mid-Century Insurance Company, Texas Farmers Insurance Company, Truck Insurance Exchange, State Farm Fire and Casualty Company; State Farm General Insurance Company; State Farm Lloyds; State Farm Florida Insurance Company (collectively, the "Settling Subrogation Carriers"). The Settling Subrogation Carriers have

entered independent, separate settlement agreements with Interline and resolved or waived all Property Damage Claims with Released Parties with a date of loss prior to February 1, 2017.

61. The Settling Parties desire and intend by this Agreement to settle finally and completely, and effectuate a final resolution of, all claims of all Settlement Class Members, whether asserted or not in the Class Action, to establish a claims process, and to provide for a complete full and final release of Released Claims in favor of the Released Parties, as described below in more detail.

NOW, THEREFORE, it is hereby agreed and stipulated by and between Plaintiffs, who are acting as Class Representatives on behalf of themselves and all other Settlement Class Members, by and through their Class Counsel, and Interline, and intending to be legally bound, that, except as specifically stated to the contrary in this Agreement, all of the allegations, claims, demands, causes of action, and liabilities, which have been, could have been, or could in the future be asserted by the Class Representatives or any of the Settlement Class Members against Interline or other Released Parties relating to, arising out of, or in connection with any allegations made in the Complaint, whether expressly asserted or not, shall be settled and compromised, and all such claims shall be dismissed on their merits with prejudice, according to the terms and conditions set forth below.

### **AGREEMENT TERMS**

#### **Settlement Class Certification**

62. Plaintiffs will seek conditional class certification for purposes of settlement. Interline supports this class certification for settlement purposes only. Plaintiffs will seek to conditionally certify the following Settlement Class:

All Persons who own or owned, or lease or leased, a residence or other structure located in the United States containing a Toilet Connector, or who otherwise suffer or have suffered Property Damage from the failure of a Coupling Nut on a Toilet Connector.

63. Excluded from the Settlement Class are the following Excluded Persons:

- a. Those Settlement Class Members who properly exclude themselves from the settlement as approved by the Court;
- b. Those Property Damage claims of Settlement Class Members previously resolved through settlement with or final judgment against Interline or other Released Parties;
- c. Interline and its parent, subsidiaries and affiliates;
- d. All those Persons that sold or distributed a Toilet Connector, including customers, retailers, resellers, wholesalers, manufacturers, suppliers and distributors of Interline, except to the extent such a Person is pursuing either (i) a Replacement Claim for a Toilet Connector that is or was installed in a residence or other structure located in the United States that the Person owns or owned, or leases or leased, or (ii) is pursuing a Damage Claim arising out of or resulting from the failure of a Toilet Connector; and
- e. The presiding District Judge and Magistrate Judge in the Class Action and their immediate families.

#### **Consideration to Settlement Class Members**

64. Interline shall pay a Total Settlement Amount of \$16.5 million into the Common Damages Fund in accordance with the funding provisions set forth in this Agreement, which represents the full extent of its and the Released Parties' liability and payment obligations, inclusive of the Replacement and Property Damage Remedies, settlement administration costs/expenses, the cost/expense of all Notice, any Service Awards for Class Representatives, and legal costs/expenses (including without limitation any attorneys' fee award/judgment, as ordered by the Court).

65. The Common Damages Fund shall be treated as a "qualified settlement fund" for federal income tax purposes pursuant to Treas. Reg. § 1.468B-1. Amounts in the Common Damages Fund shall be deposited in an interest bearing account.

66. The Common Damages Fund shall be funded as follows:

- a. Within ten (10) days of the Preliminary Approval Order, Interline shall pay or cause to be paid into the Common Damages Fund for payment by the Claims

Administrator to the Notice Provider the amounts to be paid for Settlement Notice as required by the Notice Plan.

b. Within thirty (30) days after the Effective Date, Interline shall pay or cause to be paid into the Common Damages Fund: (i) the estimated cost/expense of administration payable to the Claims Administrator; and (ii) the legal costs/expenses of Class Counsel (including without limitation any attorneys' fee award/judgment) and Service Awards as awarded by the Court. Immediately upon clearance of these amounts, the Claims Administrator shall remit to Class Counsel Chair by wire transfer the legal costs/expenses of Class Counsel (including without limitation any attorneys' fee award/judgment) and Service Awards as awarded by the Court.

c. Within thirty (30) days after the Effective Date, Interline shall pay or cause to be paid into the Common Damages Fund 40% of the Total Settlement Amount balance after payment of the amounts to be paid in paragraphs 66(a) and (b) above for the Notice Plan, Claim Administration, legal costs/expenses to Class Counsel (including without limitation any attorneys' fee award/judgment), and Service Awards.

d. Annually thereafter until the end of the Damages Claims Period, Interline shall pay or cause to be paid into the Common Damages Fund such amounts as may be necessary to maintain 20% of the Total Settlement Amount balance after payment of the amounts paid pursuant to paragraphs 66(a) and (b). Under no circumstances shall this annual funding require Interline to pay or cause to be paid more, in the aggregate (inclusive of Service Awards as well as notice, administration, legal costs/expenses, including without limitation any attorneys' fee award/judgment), than the Total Settlement Amount. The final payment shall be the lesser of either: (i) the amount remaining to pay all outstanding Property Damage Claims at 30%; or (ii) the amount necessary to make the combined total of all payments hereunder equal the Total Settlement Amount of \$16.5 million.

e. Interest earned on the Common Damages Fund shall compound within that Fund, and shall be available to pay Settlement Claims and costs/expenses described in this

Agreement.

f. If any money remains in the Common Damages Fund after the end of the Damage Claims Period and after all valid Settlement Claims for the Replacement Remedy and Property Damage Remedy have been paid, the Settling Parties shall make a written recommendation to the Court regarding the disposition of the remaining funds, if any. The Court shall direct that the remaining funds shall be paid, or apportioned to, the following: (1) Interline; (2) the Claimants as additional compensation for Property Damage Claims; (3) a cy pres distribution to a charitable cause identified by the Settling Parties and approved by the Court; and/or (4) any other use consistent with the Agreement as approved by the Court. The Court shall make a decision concerning the disposition of any remaining funds following a hearing requested by the Settling Parties or any Settlement Class Member or set by the Court on its own motion.

67. The Settling Parties believe that the Common Damages Fund described throughout this Agreement will be sufficient to provide the full amount of benefits available under this Agreement to all Claimants who submit valid Claims Forms in the claim process on a current basis. All claims shall be paid in the order in which they are received and verified.

**Reasonable Efforts and Dealings with Putative Settlement Class Members**

68. Class Counsel and Counsel for Interline agree that they will use reasonable efforts to (i) recommend and obtain approval of this Agreement by the Court, in accordance with Rule 23 of the Federal Rules of Civil Procedure; (ii) carry out the terms of this Agreement; (iii) support this Agreement in all public statements; and (iv) secure the prompt, complete and final dismissal on the merits and with prejudice of the Class Action. Class Counsel shall make reasonable efforts to encourage Settlement Class Members to participate in this settlement.

69. If contacted about this Agreement, the settlement contemplated hereby or the subject of this settlement, Interline shall refer potential Settlement Class Members to the

Claims Administrator or Class Counsel Chair or to any established toll-free number and/or website. Nothing in this Agreement shall affect the ability of Interline to continue to communicate with its actual or prospective customers and business contacts and members of the public in the ordinary course of its business.

### **The Preliminary Approval Order**

70. Class Counsel shall file a motion for entry of the Preliminary Approval Order as soon as practical after the execution of this Agreement, requesting that the Court enter an Order that:

a. Provides for the conditional certification of the Settlement Class for settlement purposes only, pursuant to Rule 23 of the Federal Rules of Civil Procedure, and approval of the Class Representatives to act as the representative plaintiffs for the Settlement Class, and Class Counsel Chair to represent the Settlement Class;

b. Determines that the Agreement falls within the range of reasonableness for the settlement of this Class Action;

c. Provides for approval of the Notice Plan and dissemination of Settlement Notice;

d. Establishes the Opt Out Deadline and Objection Deadline, including approval of the procedures for both as set forth in the Settlement Notice as approved by the Court;

e. Schedules a Final Fairness Hearing to: (i) consider the fairness, reasonableness, and adequacy to the Settlement Class Members of the proposed settlement provided for in this Agreement; (ii) consider the granting of final approval of the proposed settlement provided for in this Agreement and the dismissal on the merits and with prejudice of the Class Action; (iii) consider Class Counsel's application for an award/judgment of attorneys' fees and costs/expenses and request for Service Awards to Class Representatives; and (iv) consider such other matters as the Court may deem to be necessary or proper under the circumstances in accordance with Rule 23 of the Federal Rules of Civil Procedure;

- f. Appoints the Notice Provider and Claims Administrator;
- g. Provides that the conditional class certification for settlement purposes shall expire in the event the Effective Date does not take place; and
- h. Enjoins all Settlement Class Members, and all Persons that can pursue or are entitled to pursue an action in the name or right of a Settlement Class Member, from commencing or prosecuting any action asserting any claims that fall within the scope of the Released Claims (as defined hereunder) until the entry of the Final Order and Judgment, unless such Person has validly opted out of this settlement and Agreement and the Court has approved such opt out.

71. In the event the Final Order and Judgment is not entered or is reversed for any reason, or this Agreement is voided or terminated for any other reason, any stay of any litigation imposed under the Preliminary Approval Order shall be automatically lifted and the Settlement Class Members shall not be deemed to have waived any rights with respect to proceedings in the litigation of such actions that arise during the period of the stay and shall have a full and fair opportunity to present any position in any such proceedings.

#### **Notice Plan**

72. The Settlement Notice to be provided to Settlement Class Members shall be pursuant to a Notice Plan approved by the Court and effectuated by a Court-approved Notice Provider. The cost/expense of such notice shall be paid from the Common Damages Fund described in this Agreement. The Settling Parties and their counsel agree that reasonable notice of this Agreement consistent with the due process requirements of the United States Constitution and applicable case law shall be given to Settlement Class Members pursuant to the Preliminary Approval Order of the Court.

73. The Settling Parties agree, subject to approval by the Court, that the Settlement Notice should be in the form attached to this Agreement as Exhibits A (Long Form Notice), B (Short Form Notice), and C (Settlement Postcard) and that the Claims Form shall be in the form attached as Exhibit D.



74. The Settling Parties have in general agreed that notice will be delivered through: (i) a press release; (ii) direct mailings to all reasonably identifiable (a) Settlement Class Members who have a pending claim against Interline arising from the alleged failure of a Toilet Connector (if represented by counsel who has made an appearance or otherwise notified Interline of their representation of the Settlement Class Member, through their counsel), (b) subrogation departments for all homeowners' and renters' insurance carriers included on a list to be obtained by the Notice Provider from a nationally-recognized business and consumer listing company, and (c) plumbing and water damage restoration/remediation companies included on a list to be obtained by the Notice Provider from a nationally-recognized business and consumer listing company; (iii) a dedicated website; (iv) published notice in print media and/or internet postings designed to target home and property owners; and (v) a toll-free telephone number that will provide Settlement Class Members with information and direct them to the settlement website.

75. The Settling Parties shall present an agreed-upon Notice Plan to the Court at the Preliminary Approval Hearing, along with a recommendation for the Notice Provider and Claims Administrator. To the extent an agreed-upon Notice Plan does not exist, the Settling Parties will present competing proposals to the Court in advance of the Preliminary Approval Hearing.

76. Summary notices shall be disseminated in accordance with the Notice Plan approved in the Preliminary Approval Order.

77. A long-form notice (or postcard notice), as approved by the Court, shall be mailed, first class postage prepaid, to those Persons described in paragraph 74(ii) above. Interline maintains limited data regarding active Toilet Connector claims, from which the names and addresses of certain Settlement Class Members can be obtained. Within ten (10) days of the Preliminary Approval Order, Interline shall provide the Notice Provider with the names and addresses of any Settlement Class Members (and their counsel, if applicable) with

pending Toilet Connector claims against Interline who are reasonably identifiable on Interline's internal list of active claims.

78. Pursuant to 28 U.S.C. § 1715, Interline, through the Notice Provider, shall mail all required notices in accordance with its obligations thereunder.

79. A press release, approved by Class Counsel and Counsel for Interline, shall be disseminated by the Settling Parties and the Claims Administrator pursuant to the Court-approved Notice Plan after entry of the Preliminary Approval Order.

80. The Notice Provider shall file proof, by affidavit, of timely completion of the Notice Plan and its reach to Settlement Class Members no later than 15 days prior to the Final Fairness Hearing, unless otherwise provided by the Preliminary Approval Order.

81. No later than the dissemination of the first Settlement Notice pursuant to paragraph 77, the Claims Administrator shall establish a toll-free telephone facility. The toll-free telephone number of such facility shall be included in the published notice. The telephone facility shall be capable of: (i) receiving requests for Claims Forms, the long-form notice regarding this Agreement described in paragraph 77, or any other materials described in this section; and (ii) providing general information concerning deadlines for objecting to and opting out of the Agreement or filing a Claims Form, and the dates and locations of relevant Court proceedings, including the Final Fairness Hearing. The toll-free number shall be maintained by the Claims Administrator during the entirety of the Claims Period.

82. The Claims Administrator shall mail or e-mail long-form notices, Claims Forms, or any other required materials to anyone requesting them.

83. The Claims Administrator shall maintain records of its activities, including logs of all telephone calls and mailings, and shall keep a computerized database containing a running tally of the number of and types of materials mailed or e-mailed by it.

84. No later than the time of dissemination of the first Settlement Notice to be issued pursuant to the Notice Plan, the Claims Administrator shall establish an Internet website concerning the settlement. The Settling Parties shall agree in advance on the domain name

chosen for this website. The website shall be maintained by the Claims Administrator during the entirety of the Claims Period. The Internet address of the website shall be included in the Settlement Notice. The website shall provide, among other things: (i) generalized information concerning deadlines for opting out of and objecting to the Settlement or filing a Claims Form, and the dates and locations of relevant Court proceedings, including the Final Fairness Hearing; (ii) a listing of the toll-free phone number to be established pursuant to paragraph 81; and (iii) copies of this Agreement, the Preliminary Approval Order, the filings with the Court relating to approval of the proposed settlement, the long-form notice, the Claims Form and information concerning the submission of Claims Forms.

85. The Notice Provider must complete the Notice Plan as ordered by the Court.

#### **Opt Outs and Objections**

86. A Settlement Class Member may opt out of the Settlement Class. To exercise this opt out right, the Settlement Class Member must send written notification of the decision to request exclusion by completing an Opt Out Form, which may simply be in the form of a letter so long as it provides the information required in paragraphs 87 to 88 of this Agreement. The Opt Out Form shall be sent via first class mail to the Claims Administrator, with courtesy copies to Class Counsel Chair and Counsel for Interline. Opt Out Forms must be submitted by individual Settlement Class Members and will not be valid if submitted in the aggregate or on behalf of a purported class, except that joint owners or residents of the same residence or structure may opt out on the same form. To be valid, Opt Out Forms must be received by the Claims Administrator and/or postmarked on or before the Opt Out Deadline and approved by the Court.

87. The Opt Out Form must bear the signature of the Settlement Class Member and must include: (i) a specific request to opt out of the litigation; (ii) the Settlement Class Member's name, current address, telephone number, and email address; (iii) proof of membership in the Settlement Class; (iv) the date of purchase or installation of any failed Toilet Connector and the date of failure; (v) an estimate of the amount of damages, if any,

that the Person sustained as the result of any alleged failure of a Toilet Connector; and (vi) the identity of the lawsuit or other proceeding previously filed by the Settlement Class Member involving the failed Toilet Connector, if any.

88. If the Settlement Class Member has entered into a written or oral agreement to be represented by counsel, the Opt Out Form shall also be signed by the attorney who represents the Settlement Class Member. In seeking the Preliminary Approval Order, the Settling Parties will request that the deadline for submission of requests for exclusion be set on a date 60 days after the Notice Date.

89. Except for those Settlement Class Members who have properly filed a timely written Opt Out Form (and all other Excluded Persons) as approved by the Court, all Persons who meet the definition of Settlement Class Member will be deemed Settlement Class Members for all purposes under this Agreement and shall be bound by its provisions.

90. Any Settlement Class Member, including any insurer or other party who can or is entitled to pursue a claim through or in the name or right of a Settlement Class Member, who has not properly served a valid, timely written Opt Out Form shall be bound by this Agreement and by all subsequent proceedings, orders, and judgments issued by the Court. Any Settlement Class Member who elects to opt out of the Settlement Class and whose opt out is approved by the Court pursuant to this Agreement shall not be entitled to relief under and shall not be affected by this Agreement.

91. The Agreement and the settlement may be voided, at the election of Interline in its sole and absolute discretion, if Settlement Class Members with claims for the Property Damage Remedy collectively totaling more than \$1 million in actual claimed damages have opted out of the Settlement Class under the terms of this Agreement. Interline shall notify Class Counsel Chair and the Court in writing advising of its election to void this Agreement and the settlement within 30 days of the Opt Out Deadline, unless this deadline is extended by agreement of Class Counsel Chair or by an Order of the Court.

92. A Settlement Class Member may object to this Agreement by filing written objections in the Class Action. The Settlement Notice shall advise Settlement Class Members of their right to object. To exercise this objection right, a Settlement Class Member must provide written notice of the objection via first class mail, to Class Counsel Chair and Counsel for Interline, by the Objection Deadline. The objection must bear the signature of the Settlement Class Member (even if represented by counsel) with the date signed and must specify: (i) the name of the Class Action: *Ajose v. Interline Brands, Inc.*, Case No. 14-cv-01707; (ii) the Settlement Class Members' current address, telephone number, and email address; (iii) whether, as of the date of the written objection, the Settlement Class Member owns or rents a residence or structure or formerly owned, or rented a residence or structure containing a Toilet Connector, or otherwise suffered damages as a result of the failure of a Toilet Connector; (iv) the address of the property that may contain or contained a Toilet Connector and, if different, the address where the Settlement Class Member suffered damages from a failed Toilet Connector; (v) proof that the objector's residence or structure contains a Toilet Connector or otherwise suffered damages caused by the failure of a Toilet Connector (photographs, contemporaneous installation records, etc.); (vi) the exact nature of the objection, the facts underlying, and legal authority supporting, the objection, and whether or not the Settlement Class Member intends to appear at the Final Fairness Hearing; and (vii) all evidence and supporting papers (including, but not limited to, all briefs, written evidence, and declarations) that the Settlement Class Member wants the Court to consider in support of the objection. If the Settlement Class Member is represented by counsel, the objection shall also be signed by the attorney who represents the Settlement Class Member. If a Settlement Class Member or counsel for the Settlement Class Member has objected to a class action settlement on any prior occasion, the Objection shall disclose all cases in which the Settlement Class Member or his/her/its counsel have filed an objection by caption, court and case number.

93. Any Settlement Class Member who objects as described above must make (i) the

alleged product and residence or structure at issue available for inspection and confirmation by Class Counsel Chair and Counsel for Interline that the objector's damages were caused by a failed Toilet Connector; and (ii) himself/herself/itself available for deposition before the Settling Parties file a motion for final approval of the settlement.

94. Class Counsel Chair and Counsel for Interline must be served with copies of the objections, postmarked no later than the Objections Deadline. In seeking the Preliminary Approval Order, the Settling Parties will request that the deadline for submission of objections be 60 days from the Notice Date.

95. Settlement Class Members who object to the Agreement may appear and be heard orally at the Final Fairness Hearing provided they file a Notice of Intent to Appear with the Court and with the Claims Administrator no later than the Objection Deadline which specifies, in detail, the subjects on which they wish to be heard. Class Counsel Chair and Counsel for Interline must also be served with copies of the Notice of Appearance, postmarked no later than the Objection Deadline. Failure to abide by the obligations of an objector described herein, including the need to file a Notice of Appearance and to detail the subjects on which they wish to be heard, may result in a waiver of any right that objector has to be heard at the Final Fairness Hearing as determined by the Court.

### **Releases**

96. Upon the entry of the Final Order and Judgment, all Settlement Class Members, on behalf of themselves and their agents, heirs, executors and administrators, successors, assigns, insurers, attorneys, representatives, shareholders, owners associations, and any and all Persons who can or are entitled to make a claim through or in the name or right of any of them (the "Releasing Parties"), release and forever discharge Interline and its insurers, reinsurers, agents, firms, parent companies/corporations (*i.e.*, The Home Depot, Inc.), sister companies/corporations, subsidiaries and affiliates, and all businesses and entities that are alleged to have designed, manufactured (specifically including without limitation Watts Regulator Co.; Watts Water Technologies, Inc.; and Watts Plumbing Technologies (Taizhou)

Co., Ltd. f/k/a Taizhou Shida Plumbing Manufacturing Co. Ltd.), supplied (specifically including Linx, Ltd. and MTD (USA) Corp.), imported, distributed, sold and/or installed a Toilet Connector (and any parts thereof, including the Coupling Nut), including all customers, retailers, resellers, wholesalers and distributors who purchased or acquired Toilet Connectors from Interline and those Persons who installed such Toilet Connectors; and all of the foregoing persons' or entities' respective predecessors, successors, subsidiaries, assigns, insurers and present and former officers, directors, shareholders, employees, agents, attorneys, and representatives (collectively, the "Released Parties") from each and every claim of liability, on any legal or equitable ground whatsoever, including relief under federal law or the laws of any state, based on alleged defects and/or failures of the Coupling Nuts on Toilet Connectors distributed and/or sold by Interline, whether tagged or untagged with the DuraPro™ brand, including without limitation all claims, defenses, damages, punitive or exemplary damages, fees, costs, expenses or liability on any legal or equitable ground whatsoever, and regardless of whether such claims might have been or might be brought directly or indirectly, or through subrogation or assignment or otherwise, on account of or related to the failure of a Coupling Nut on a Toilet Connector, which have been or could have been alleged in the Class Action, and similar litigation ("Released Claims"). The releases provided for herein are as a result of membership as a Settlement Class Member in the Settlement Class described in this Agreement and status as a Person with a legal right to assert claims of a Settlement Class Member, and the Court's approval process herein, and are not conditional on receipt of payment by any particular member of the Settlement Class. It is the intent of the Settling Parties and this Agreement that Persons who, after the date of the Preliminary Approval Order, acquire legal rights to assert claims within the scope of this Agreement that belong initially to a Settlement Class Member shall take such rights subject to all of the terms, time periods, releases, prohibitions against double recoveries and other provisions contained herein.

97. The release provided by this Agreement shall be and is broad and expansive and shall include release of all damages, burdens, obligations of liability of any sort, including, without limitation, penalties, punitive damages, exemplary damages, statutory damages, damages based upon a multiplication of compensatory damages, court costs, or attorneys' fees or expenses, which might otherwise have been made in connection with any claim relating to any failure of the Coupling Nut on a Toilet Connector distributed and/or sold by Interline.

98. This release includes all claims that the Settlement Class Members have or may hereafter discover, including without limitation claims, damages, liabilities or facts in addition to or different from those now known or believed to be true with respect to any matter disposed of by this Agreement. By this Agreement, the Settlement Class Members have fully, finally, and forever settled and released any and all such claims, damages, liabilities or facts whether known or unknown, suspected or unsuspected, contingent or non-contingent, past or future, whether or not concealed or hidden, which exist, could exist in the future, or heretofore have existed upon any theory of law or equity now existing or coming into existence in the future, including, but not limited to, conduct which is negligent, reckless, willful, intentional, 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, claims, damages or liabilities. The Settlement Class Members shall be deemed by operation of the Final Order and Judgment to have acknowledged that the foregoing waiver was separately bargained for and a material element of the settlement of which the releases herein are a part. The Settlement Class Members expressly and intentionally waive any and all rights and benefits which they now have or in the future may have under the terms of the law (whether statutory, common law, regulation, or otherwise) of any other state or territory of the United States as related to matters arising from or in any way related to, connected with, or resulting from the failure of a Coupling Nut on a Toilet Connector.

99. It is the intent of the Settlement Class Members that no Releasing Party shall



recover, directly or indirectly, any sums for claims released by operation of this Agreement, including, without limitation, to the claims settled and released herein, from the Released Parties, other than sums to be received under this Agreement, and that the Released Parties shall have no obligation to make any payments to any non-parties for liability arising out of claims released by operation of this Agreement.

100. If, notwithstanding the intention of the Settling Parties expressed herein, any release given by the Releasing Parties is not given its full effect by operation of law, then the Releasing Parties shall be deemed to have and do hereby transfer and assign to the Released Parties all Released Claims, if any, that were deemed not released, to the extent necessary to effectuate the intent of the release.

101. Class Counsel shall cooperate with Released Parties to ensure that the releases set forth in the Final Order and Judgment are given their full force and effect (including by seeking the inclusion of the releases in the Final Order and Judgment and the Claims Forms) and to ensure that Releasing Parties comply with their obligations set forth in this Agreement.

102. Releasing Parties agree that the provisions of this Agreement and any claim thereunder constitute a good faith settlement under California Code of Civil Procedure §§ 877 and 877.6, Hawaii Revised Statutes 663-15.5, and comparable laws in other states, that Class Counsel and Releasing Parties shall cooperate fully in any effort of Released Parties to establish such good faith settlement before any court (including without limitation, by joining in any motion or other procedure and providing declarations and other evidence to establish such good faith settlement where requested by any Released Party) and that all payments made under this Agreement relate to claims arising out of or related to alleged failures of Coupling Nuts on Toilet Connectors.

103. In the event that any Releasing Party seeks to invoke California Civil Code § 1542, which provides that:

**“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 TO HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.”**

(or any other like provision or principle of law of any jurisdiction) in connection with the alleged failures of Coupling Nuts on Toilet Connectors, the Releasing Parties and each of them now expressly waive the provision of California Civil Code § 1542 (or any other like provision or principle of law of any jurisdiction) to the full extent that these provisions may be applicable to this release. Each of the Releasing Parties hereby does consider, and shall be deemed to have considered, the possibility that the number or magnitude of all claims may not currently be known; nevertheless, each of the Releasing Parties assumes the risk that claims and facts additional, different, or contrary to the claims and facts that each believes or understands to exist, may now exist, or may be discovered after this Agreement becomes effective. Each of the Releasing Parties agrees that any such additional, different, or contrary claims and facts shall in no way limit, waive, or reduce the foregoing release, which shall remain in full force and effect. Nothing in this paragraph shall be construed as modifying or limiting the other provisions of this Agreement concerning the potential availability of Settlement Claims or other claims for failures of Coupling Nuts on Toilet Connectors that occur after the date of entry of the Final Order and Judgment.

**Payment of Legal Costs/Expenses (including Attorneys' Fees)  
to Class Counsel and Class Representatives**

104. Within the time period established by the Court, Class Counsel may apply for an award/judgment of costs/expenses, including attorneys' fees of up to one-third of the Total Settlement Amount to be paid from the Common Damages Fund. In no event shall the application of Class Counsel for an award/judgment of such costs/expenses (including attorneys' fees) and an award/judgment of Service Awards for Class Representatives be filed later than thirty (30) days prior to the Objection Deadline. Interline reserves its rights to

object to Class Counsel's cost/expense reimbursement application, including the amount of attorneys' fees sought to the extent the attorneys' fees application exceeds one-third of the Total Settlement Amount.

105. Payment of the costs/expenses (including attorneys' fees) as awarded/adjudged by the Court shall constitute full satisfaction of any claim for costs/expenses (including attorneys' fees) between and among the Class Counsel, any other attorneys who claim entitlement to costs/expenses (including attorneys' fees) under this settlement and the Settlement Class Members, on the one hand, and Interline and the Released Parties, on the other hand. Class Counsel reserves the right to seek a further award/judgment of costs/expenses (including attorneys' fees) incurred in connection with settlement administration after the Effective Date. Interline reserves all rights with respect to any such application. Any such award of settlement administration-related costs/expenses (including attorneys' fees) will be paid from the Common Damages Fund. Class Representatives and Class Counsel, on behalf of themselves and all Settlement Class Members, agree that they shall not seek any additional costs/expenses (including attorneys' fees) under any theory as against Interline or the Released Parties. Under no circumstances shall Interline be responsible for paying any amounts above the Total Settlement Amount agreed to hereunder.

106. The costs/expenses (including attorneys' fees) awarded/adjudged by the Court shall be paid within thirty (30) days of the Effective Date and shall be paid to the Class Counsel Chair by wire transfer as directed and approved by the Court, who shall distribute the Court awarded costs/expenses (including attorneys' fees) to Class Counsel in its discretion along with Co-Lead Counsel. Except as provided herein, the Settlement Class Members and Interline and other Released Parties shall bear their own costs/expenses (including attorneys' fees).

107. Class Counsel will seek Service Awards (not to exceed \$5,000) from the Court for each Class Representative. Class Counsel Chair will apply to the Court for a

Service Award for each Class Representative who sat for deposition, produced documents, and/or responded to interrogatories for their effort, service, time, and expenses. Interline reserves their right to object to these Service Awards. If awarded/adjudged by the Court, these Service Awards shall be paid to the Class Counsel Chair for distribution to the Class Representatives within thirty (30) days of the Effective Date.

### **Claims Process and Eligibility of Settlement Class Members**

108. Class Counsel Chair and Counsel for Interline shall work with the Claims Administrator to plan a claims procedure to implement this Agreement and resolve any issues concerning the administration of this settlement.

109. A Claims Administrator will be appointed by the Court in the Preliminary Approval Order. The Claims Administrator shall be responsible for effectuating the claims process. The reasonable costs/expenses (including any fees) of the Claims Administrator shall be paid from the Common Damages Fund.

110. A Special Master will be selected by the Settling Parties and presented to the Court for approval at the Final Fairness Hearing. The Special Master shall be responsible for resolving disputes arising as a result of the claims process, if any.

111. In no event shall Plaintiffs, Interline, Counsel for Interline, the Released Parties, or Class Counsel have any liability for claims of wrongful or negligent conduct on the part of the Claims Administrator or the Special Master, or their agents.

112. The Claims Administrator shall:

- a. use personal information acquired as the result of this Agreement solely for purposes of evaluating and paying claims under this Agreement;
- b. assign a manager to oversee the protection and appropriate management of personal information and review its internal system to manage the protection of personal information to ensure consistent performance and constant improvement;
- c. take security countermeasures to prevent unauthorized access to personal information and the loss, destruction, falsification and leakage of personal information;

d. if outsourcing the handling of personal information, determine that outsourced companies take steps to ensure appropriate management of the information to prevent leaks of personal or confidential information, and prohibit re-use of information for other purposes;

e. respond immediately with appropriate measures when necessary to disclose, correct, stop using, or eliminate contents of information; and

f. following the completion of the Claims Period and in compliance with applicable retention law, destroy all personal information obtained in connection with this settlement in a manner most likely to guarantee that such information not be obtained by unauthorized persons.

113. The Claims Administrator shall maintain a complete and accurate accounting of the receipts, expenses (including claims administration costs), and approvals and payments made for Replacement Claims and Damage Claims pursuant to this Agreement. The accounting shall be made available to Class Counsel, Counsel for Interline and Interline on reasonable notice.

114. Any Settlement Class Member who wishes to make a Settlement Claim must completely fill out and sign a Claims Form and must provide the Claims Administrator with all requested information. The release contained in the Claims Form and required by this paragraph shall in no way be construed to limit, amend, or alter the terms of the releases provided by this Agreement.

115. The Settling Parties intend by this Agreement to bind all Persons who own or rent, have owned or rented, or in the future may own or rent, or have a present or future financial interest or stake in, buildings, homes, residences or any other structures in the United States which contain or have ever contained a Toilet Connector, or who otherwise suffer or have suffered damages as a result of the failure of a Coupling Nut on a Toilet Connector, to the terms and conditions of this Agreement and to require all such Persons (other than those who validly opt out and exclude themselves as Settlement Class Members

from this Agreement) to submit claims only through the claims process described in this Agreement.

### **Claims Period**

116. Claims must be made within the applicable Damage Claims Period or Replacement Claims Period.

### **Replacement Remedy**

117. The Common Damages Fund shall be used to pay claims for replacement toilet connectors at a rate of \$4 per replacement toilet connector, not to exceed five replacement toilet connectors per residence or other structure (a maximum total of \$20 per household).

a. To be eligible to participate in the replacement program, a Settlement Class Member seeking the Replacement Remedy must establish that the Settlement Class Member currently has in his/her/its possession, or has replaced without compensation or reimbursement from Interline or a third party, an installed Toilet Connector in a residence or other structure owned or leased by the Settlement Class Member, through the production of evidence that the residence or structure contained a Toilet Connector, such as the Toilet Connector itself, a photograph of the Toilet Connector, or other form of proof satisfactory to the Claims Administrator in consultation with Class Counsel Chair and Counsel for Interline.

b. The “Replacement Claims Period” shall be two (2) years from the Final Order and Judgment. All Replacement Claims must be filed within the Replacement Claims Period. All Replacement Claims that have been received and verified shall be paid within 90 days of the Claim Administrator’s approval of the Replacement Claim, which approval shall not take place before the Effective Date.

c. All Claimants who participate in the Replacement Remedy shall be precluded from later filing a claim for a Property Damage Remedy caused by the same Toilet Connector that was the subject of the Replacement Claim. A Claimant who has suffered Property

Damage shall not be precluded from submitting a Replacement Claim for other Toilet Connectors that are not the subject of the Damage Claim.

d. All amounts remaining in the Common Damages Fund after payment of all Replacement Claims filed during the Replacement Claims Period shall be retained in the Common Damages Fund and will be available for payment of claims for Property Damage.

### **Property Damage Remedy**

118. Except as otherwise provided herein, the Common Damages Fund shall be applied against claims by Settlement Class Members arising from Property Damage caused by failures of Coupling Nuts on Toilet Connectors, so long as those claims are submitted within the “Damage Claims Period.”

a. To be eligible to receive a Property Damage Remedy, a Settlement Class Member seeking that remedy must establish that the Settlement Class Member has experienced Property Damages from a failure of a Coupling Nut on a Toilet Connector, and must submit a valid claim within the “Damage Claims Period.”

b. The “Damage Claims Period” during which claims for Property Damage arising from the failure of the Coupling Nut on a Toilet Connector can be made against the Common Damages Fund shall be four (4) years from the Final Order and Judgment.

c. Claims for Property Damage arising from alleged failures of Coupling Nuts on Toilet Connectors shall be administered pursuant to the following guidelines:

1. Claims of Settlement Class Members resulting from the same alleged failure of a Coupling Nut on a Toilet Connector shall be made jointly, whenever practicable.

2. To avoid a Claimant from a potential double recovery, Claimants who are current or former homeowners or renters are only permitted to recover for their uninsured and unrecovered Property Damage (*e.g.*, their deductibles), while Claimants that are subrogating carriers can only recover their subrogated Property Damage.

3. Claims for the Property Damage Remedy shall be evaluated in the order in which they are submitted to the Claims Administrator.

4. Except to answer questions regarding the terms of this Settlement Agreement and Claims Process, and to assist in identifying whether a supply line without a DuraPro™ label constitutes a Toilet Connector, the Settling Parties shall not participate in the evaluation performed by the Claims Administrator. The Claims Administrator shall provide Class Counsel Chair and Counsel for Interline quarterly reports in Microsoft Excel format of the evaluated claims. The quarterly report shall include the Claimants' contact information, the total amount of the claim, any disallowed portion of the claim, the total amount of the claim compensable under the Agreement, and whether the claim is recommended for payment or rejected (and the basis for rejection).

5. All Claimants shall be required to submit to the Claims Administrator available evidence that a Toilet Connector failed, including the Toilet Connector and the Coupling Nut that allegedly failed; any available photographs of the Toilet Connector and Coupling Nut; and available labels, packaging, and purchase receipts; and reports that describe the cause of the loss. The Claimant shall also submit documents substantiating the Property Damage and cost of repairing Property Damage caused by a failed Toilet Connector. An individual Claimant shall also make every reasonable effort to submit information regarding the amount of any uninsured Property Damage suffered by the Claimant (including receipts, invoices, estimates for damages that were not covered by insurance, and explanation of benefits letters), proof of the damages allegedly caused by the Toilet Connector (including repair estimates for all expenses not covered by an insurance carrier, invoices, receipts, and other proof of payment (*e.g.*, canceled checks, credit card statements) for all expenses not covered by an insurance carrier, and explanation of benefits letters), and the amount of any deductible paid by the Claimant to an insurance company or otherwise (including a declarations page for the policy and explanation of benefits letters). An insurance company that is pursuing a subrogation claim as a Claimant shall also make every reasonable effort to submit information regarding proof of



payment for Property Damage (including the date of issue, check number, and payee for any payment, copies of checks issued for the benefit of the homeowner, explanation of benefits letters, and screenshots of the carrier's payment screen), proof that the payment was made to address Property Damages allegedly caused by a Toilet Connector (including repair estimates in support of the carrier's payments to the homeowner, invoices and receipts for all expenses covered by the carrier, and explanation of benefits letters), proof that the Toilet Connector caused the damage for which payment was made (including photographs of the allegedly failed product in the property where the loss occurred, and any claim notes or adjuster's reports that describe the cause of the loss), the amount of deductible paid by the insured (including declarations page for the homeowner's policy, screenshots of the payment screen, and explanation of benefits letters), and the amount of any uninsured damage suffered by the insured (including receipts, invoices, and estimates submitted by or on behalf of the homeowner, and explanation of benefits letters). With each Claim (or group of Claims where applicable), a Claims Form that includes a release and a certification verifying the date of purchase and when the Toilet Connector was installed and when it failed shall be provided by the Claimant.

6. No compensation shall be made for a failed connector that the Claims Administrator cannot definitively determine to be a Toilet Connector based on the available evidence submitted by a Claimant.

7. Claimants shall be allowed to recover not less than \$4, but not more than 30% of their reasonably proven Property Damage caused by, and related to, an alleged failure of a Coupling Nut on a Toilet Connector.

8. The Claims Administrator shall determine and pay the amount of the claims as provided herein, and as supplemented by claims administration guidelines to be agreed upon by Class Counsel Chair and Counsel for Interline. All claims for Property Damage submitted within one year after the Final Order and Judgment must be paid, at least in part, within 60 days after the later of (a) that one-year period after the Final Order and Judgment or (b) the Effective Date. All claims for Property Damage filed in subsequent years of the Damage

Claims Period will be paid, at least in part, within 60 days after the end of such year of the Damage Claims Period or 60 days after the Effective Date, whichever is later. Depending on the amount of money in the Common Damages Fund in a particular year of the Damage Claims Period, and the volume of claims previously approved and/or paid, the Claims Administrator will have the ability to adjust the initial payments made to Claimants to an amount less than 30% of the Claimant's approved Claim during each period in the Damage Claims Period. The Claims Administrator may provide for additional payments to be paid to Claimants whose payments had been adjusted to equalize payments to all Claimants, if appropriate in light of subsequent annual funding and claims submissions at the end of the Damages Claims Period. The Claims Administrator may elect to apply a *pro rata* payment to all Claimants during the Damages Claims Period if necessary to provide for equity among all Claimants.

9. To the extent a Claimant does not receive 30% of their reasonably proven Property Damage prior to the end of the Damages Claims Period pursuant to an adjustment by the Claims Administrator, there may be a *pro rata* payment at the end of the Damage Claims Period of the amount remaining in the Common Damages Fund (the "Catch-Up Payment"). This Catch-Up Payment will ensure the fair distribution of the Common Damages Fund to all Claimants, and will be addressed by the Claims Administrator in the final annual time interval in the Damages Claims Period. To the extent necessary, this Catch-Up Payment shall be distributed to all Settlement Class Members concurrently with any payment of the claims paid after the conclusion of the last annual time interval. However, in no circumstance shall a Claimant receive more than 30% of their reasonably proven damages as determined by the Claims Administrator or Special Master, where applicable.

10. The Claim Administrator's determination of the amounts owed to Claimants shall be final, unless appealed to the Special Master. The cost/expense of the Special Master shall be borne by the losing party. If the Claimant loses an appeal, the cost/expense will be paid by that Claimant. In the event a Claimant is the losing party, but the Claimant is nevertheless owed money from the Common Damages Fund after the Special Master's ruling

becomes final, and the monies owed to the Claimant exceed the cost/expense of the Special Master, the Claims Administrator may deduct the cost/expense of the Special Master from the amounts owed to the Claimant and pay the Special Master directly. If the Claims Administrator's determination is revised in favor of the Claimant, then the cost/expense will be paid from the Common Damages Fund.

### **Final Order and Judgment and Dismissal**

119. At least 30 days before the Final Fairness Hearing, Class Counsel shall file a motion requesting that the Court grant final approval of the settlement embodied in this Agreement and that the Court enter a Final Order and Judgment as required by and conforming to the terms and conditions of this Agreement. The Settling Parties shall make all reasonable efforts to secure the entry of the Final Order and Judgment.

120. The Final Order and Judgment shall *inter alia*:

a. Determine that the Court has and shall retain exclusive jurisdiction over: (i) the Agreement, including its administration, consummation, claim procedures, enforcement, and any other issues or questions that may arise; (ii) the Settling Parties and disputes for purposes of the Agreement; (iii) any applications for Service Awards, Class Counsel's legal costs/expenses (including attorneys' fees), and expenses and costs related to the Agreement; and (iv) all proceedings related to this Agreement both before and after Final Approval is entered and is no longer subject to appeal, and over enforcement of the Final Order and Judgment.

b. Approve this Agreement and its terms as being a fair, reasonable and adequate settlement as to the Settlement Class Members within the meaning of Rule 23 of the Federal Rules of Civil Procedure, the Class Action Fairness Act, and other applicable law, and direct that the Agreement be implemented in accordance with its terms.

c. Determine that the Settlement Notice, as approved by the Preliminary Approval Order, constitutes reasonable and the best practicable notice reasonably calculated under the circumstances to apprise Settlement Class Members of the pendency of the Class Action, the terms of the Agreement, the right to object or opt out, the right to appear at the Final

Fairness Hearing, the Claims Process, that the Settlement Notice is adequate and sufficient to all persons entitled to receive such notices, and meets the requirements of due process and other applicable rules or laws.

d. Determine that there is no just reason for delay and that the Final Order and Judgment shall be final and entered.

e. Dismiss with prejudice the Class Action and the Complaint therein.

f. Enjoin and forever bar all Settlement Class Members, including, but not limited to, those who have not properly opted out of the Settlement Class, from maintaining, continuing, prosecuting, and/or commencing any claim, lawsuit, action, proceeding, counterclaim, cross-claim, or defense, legal or otherwise, against Interline or the Released Parties that arises from, concerns, or otherwise relates, directly or indirectly, to the failure of a Coupling Nut on a Toilet Connector, including, without limitation, any claims for contribution, indemnification, subrogation, or any other claims arising from, concerning, or relating to the failure of a Toilet Connector.

g. Refer to and invoke the Full Faith and Credit Clause of the United States Constitution and the doctrine of comity and request that any court or other tribunal in any other jurisdiction reviewing, construing, or applying the Final Order and Judgment implement and enforce its terms in their entirety.

h. Enter a separate order pursuant to Fed.R.Civ.P. 54(b) approving the settlement.

121. The failure of the Court or any appellate court to approve in full the request by Class Counsel for costs/expenses (including attorneys' fees) shall not be grounds to cancel or terminate this Agreement.

122. If the Final Order and Judgment described in paragraph 120 above is not granted in whole by the Court, or it is not upheld on appeal, or this Agreement is otherwise terminated before the Effective Date: (i) the conditional certification of the Settlement Class shall cease; (ii) the Agreement and all negotiations, proceedings, and documents prepared,

and statements made in connection therewith, and the conditional certification of the Settlement Class shall be without prejudice to any Settling Party and shall not be deemed or construed to be an admission, confession or estoppel by any Settling Party of any fact, matter, or proposition of law; and (iii) all Settling Parties shall stand in the same procedural position as if the Agreement had not been negotiated, made, or filed with the Court.

#### **Effective Date**

123. No payments to Claimants under this Agreement shall be made until the Effective Date of the settlement. The Effective Date shall occur when all of the following conditions have been satisfied:

- a. The Court has entered a Final Order and Judgment; and
- b. The Final Order and Judgment has become final. The Final Order and Judgment shall become final upon the later of: (i) all periods within which to file an appeal from the Final Orders and Judgments has expired without the filing of any appeal, or (ii) in the event that an appeal from the Final Order and Judgment is filed, a final order has been entered disposing of the appeal, and any time for seeking leave to appeal or time for further appeal has expired.

#### **Exclusive Remedy, Dismissal of Action and Jurisdiction of Court**

124. Each and every Settlement Class Member who has not properly filed a timely written request for exclusion from the Settlement Class submits to the jurisdiction of the Court and will be bound by the terms of this Agreement, including, without limitation, all releases.

125. Except for those claims remaining after the opt out process, this Agreement sets forth the sole and exclusive remedy for any and all pending or future claims of Settlement Class Members against Interline and Released Parties arising from the alleged failure of Coupling Nuts on Toilet Connectors. Upon entry of the Final Order and Judgment, each Settlement Class Member who has not validly and timely opted out of the Settlement Class and any Person that has made or can or is entitled to make a claim through or in the

name or right of a Settlement Class Member, shall be barred and enjoined from maintaining, continuing, prosecuting, and/or commencing any claim, lawsuit, action, proceeding, counterclaim, cross-claim, or defense, legal or otherwise, against Interline or the Released Parties that arises from, concerns, or otherwise relates, directly or indirectly, to the failure of a Coupling Nut on a Toilet Connector, including, without limitation, any claims for contribution, indemnification, subrogation, or any other claims arising from, concerning, or relating to the failure of a Toilet Connector.

126. Upon the Effective Date, the Class Action and all claims and allegations concerning alleged failures of Coupling Nuts on Toilet Connectors therein shall be dismissed with prejudice. Moreover, after the Effective Date, Interline and/or the Release Parties may seek the dismissal of any lawsuits or other legal proceedings filed by Settlement Class Members who did not properly opt out of the settlement. Class Counsel will affirmatively support such requests for dismissal.

127. The Court shall retain exclusive and continuing jurisdiction to interpret and enforce the terms, conditions, and obligations of this Agreement and its own orders and judgments. In the event of a breach by Interline, a Settlement Class Member or Class Counsel under this Agreement, the Court may exercise all equitable powers over Interline, such Settlement Class Member or Class Counsel to enforce this Agreement and the Final Order and Judgment irrespective of the availability or adequacy of any remedy at law. Such powers include, among others, the power of specific performance and injunctive relief.

#### **Other Terms and Conditions**

128. This Agreement is made for the sole purpose of attempting to consummate a settlement of the Class Action on a class-wide, nationwide basis. This Agreement is made in compromise of disputed claims and shall not be construed as an admission of liability by Interline or any Released Party. Interline is agreeing to a settlement solely to avoid further litigation. Because this is a class action settlement, this Agreement must receive preliminary and final approvals by the Court. It is an express condition of this Agreement that the Court

shall make and enter a Final Order and Judgment in writing and fully in conformance with the terms and conditions of this Agreement. In the event that the Effective Date does not occur, this Agreement shall be terminated and only those provisions necessary to effectuate such termination and to restore fully the Settling Parties to their respective positions before entry of this Agreement shall be given effect and enforced. In such event, the Settling Parties shall bear their own costs/expenses (except the costs of the Notice Plan which shall be borne solely by Interline) and attorneys' fees in all respects, including without limitation with regard to the efforts to obtain any Court approval under this Agreement.

129. The Settling Parties and signatories to this Agreement warrant and represent that in executing this Agreement they have each had the opportunity to seek legal advice from the attorney and/or attorneys of his/her/its/their choice, and the terms of this Agreement and its consequences have been completely read and explained to any such Settling Party by such attorney. Irrespective of whether the Settling Parties and signatories have availed themselves of the opportunity to have an attorney review this Agreement, however, each Settling Party represents and expressly warrants that he/she/it/they fully understand both the terms and consequences of executing this Agreement, and executes it and agrees to be bound by the terms set forth herein knowingly, intelligently, and voluntarily.

130. Each Settling Party and signatory further acknowledges and represents that he/she/it/they has/have been apprised of all relevant information and data furnished by his/her/its/their attorneys of record and all other information relevant to this Agreement, including, but not limited to, future risks, complications, and costs. Each Settling Party and signatory further acknowledges and represents that, in executing this Agreement, he/she/it/they has/have not relied upon any inducements, promises, or representations, other than those specifically provided and set forth within this Agreement.

131. Each Settling Party and signatory agrees to execute and deliver to any other Settling Party any and all such additional documents and to perform any and all acts

necessary, convenient or desirable, as may be reasonably required to fully carry out and effectuate the intent of this Agreement.

132. The Settling Parties acknowledge that it is their intent to consummate this Agreement and agree to make best efforts to cooperate to the extent necessary to effectuate and implement all terms and conditions of the Agreement and to exercise their best efforts to accomplish the foregoing terms and conditions of the Agreement.

133. This Agreement compromises claims that are contested in good faith, and shall not be deemed an admission by any of the Settling Parties as to the merits of any claim or defense. It is understood and agreed by the Settling Parties that nothing in this Agreement shall be construed as an admission, concession or acknowledgment of any liability or any allegation of fact or law and that this Agreement shall not be used as evidence of any such admission, concession or acknowledgment. All actions taken and statements made by the Settling Parties or their representatives relating to their participation in this Agreement have been and will be taken and made in the context of privileged and confidential settlement negotiations, shall be without prejudice or value as precedent, and shall not be taken or construed as a standard by which other matters may be judged. The Settling Parties agree that the amounts paid in settlement and the other terms of this Agreement were negotiated in good faith by the Settling Parties, and reflect a settlement that was reached voluntarily after consultation with competent legal counsel and through involvement in the Court.

134. All of the notices, orders, judgments, and other documents contemplated by this Agreement (whether in original form or as modified in writing with consent of all Settling Parties) are material and integral parts of this Agreement and are fully incorporated herein by this reference.

135. Class Counsel, on behalf of the Settlement Class Members, expressly warrant that they are authorized by the Class Representatives to take all appropriate action required or permitted to be taken by the Settlement Class Members pursuant to the Agreement to effectuate its terms, and also are expressly authorized to enter into any modifications or



amendments to the Agreement on behalf of the Settlement Class Members which they deem appropriate.

136. Each counsel or other Person executing the Agreement on behalf of any party hereto hereby warrants that such Person has the full authority to do so. Class Counsel and Counsel for Interline believe the Agreement represents a fair, just, reasonable, and good faith settlement of the claims alleged in the Class Action. The Agreement is binding on the Settling Parties, the Class Representatives, the Settlement Class Members, and as applicable herein, on Class Counsel in their own right.

137. The Agreement shall be binding upon, and inure to the benefit of, the agents, heirs, executors, administrators, successors, and assigns of the Settling Parties.

138. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and not strictly for or against any Settling Party. No Settling Party shall be deemed the drafter of this Agreement. The Settling Parties acknowledge that the terms of the Agreement are contractual and are the product of negotiations between the Settling Parties and their counsel. Each Settling Party and its counsel cooperated in the drafting and preparation of this Agreement, and this Agreement shall not be construed against either Settling Party because of its role in drafting it. Any canon of contract interpretation to the contrary, under the law of any state, shall not be applied.

139. This Agreement and all of the notices, orders, and judgments required by this Agreement constitute the entire agreement of the Settling Parties with respect to the subject matter thereof. In entering this Agreement, no Settling Party is relying on any promise, inducement, or representation other than those set forth herein. Any agreement purporting to change or modify the terms of this Agreement or all of the notices, orders, and judgments required by this Agreement must be in writing, signed by counsel for each of the parties to this Agreement. Sub-headings in this Agreement are for purposes of clarity only and are not intended to modify the terms of the Agreement's text, which are controlling.

140. The waiver by any party to this Agreement of any breach of its terms shall not be deemed or construed to be a waiver of any other breach of this Agreement, whether prior, subsequent, or contemporaneous. Waivers must be in writing signed by Class Counsel Chair and Counsel for Interline.

141. This Agreement may be executed in any number of counterparts, each of which shall be deemed to be an original. All counterparts shall constitute one Agreement, binding on all parties hereto, regardless of whether all parties are signatories to the same counterpart, but the Agreement will be without effect until and unless all parties to this Agreement have executed a counterpart.

142. This Agreement shall be governed by the laws of the State of Tennessee, without regard to its conflict of laws rules, precedent, or case law.

**REMAINDER OF PAGE INTENTIONALLY LEFT BLANK.**

**SIGNATURE PAGE TO FOLLOW.**

Dated: April 20, 2018

**SALTZ, MONGELUZZI, BARRETT &  
BENDESKY, P.C.**



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Attorneys for Plaintiffs and Class Counsel Chair of  
the Proposed Class

Dated: April \_\_, 2018

**INTERLINE BRANDS, INC.**

By: \_\_\_\_\_  
Its: \_\_\_\_\_