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15 *(Additional Counsel listed on following page)*

16
17 SUPERIOR COURT OF THE STATE OF CALIFORNIA
18 FOR THE COUNTY OF LOS ANGELES

19 EDWIN RALDA, individually and on
behalf of all similarly situated and/or
20 aggrieved employees of Defendants in
the State of California,

21 Plaintiff,

22 v.

23 SMART & FINAL STORES, LLC and
24 DOES 1 THROUGH 50, inclusive,

25 Defendant.

Case No.: 18STCV08098

**SETTLEMENT OF CLASS ACTION
CLAIMS**

1 CHRISTINA SEEHOF, individually, and
2 on behalf of other members of the general
3 public similarly situated, and as aggrieved
4 employees pursuant to the Private Attorneys
5 General Act (“PAGA”),

6 Plaintiff,

7 vs.

8 SMART & FINAL STORES, INC. a
9 Delaware corporation; and DOES 1 through
10 100, inclusive,

11 Defendants.

Case No. 19STCV27880

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1 **SETTLEMENT AGREEMENT**

2 This Settlement Agreement of Class Action Claims (“Settlement” or “Settlement
3 Agreement”) is made between Edwin Ralda and Christina Seehof (“Plaintiffs”), as individuals and
4 on behalf of all other similarly situated employees, on the one hand, and Defendant Smart & Final
5 Stores LLC (“Defendant” or “Smart & Final”) on the other hand (collectively, the “Parties” and
6 individually, a “Party”) in the actions pending in Los Angeles County Superior Court (the
7 “Lawsuit,” as defined below). This Settlement was reached pursuant to a mediation conducted on
8 March 30, 2021 by Mark Rudy and lengthy negotiations between the Parties over the course of
9 several months thereafter.

10 **I. DEFINITIONS**

11 **A.** “Class Counsel” means David X. Lin and Graham S. P. Hollis of Graham Hollis
12 APC, 3555 Fifth Avenue Suite 200, San Diego, CA 92103; and Matthew R. Bainer of The Bainer
13 Law Firm, 1901 Harrison Street, Suite 1100, Oakland, CA 94612.

14 **B.** “Class Member Payments” means the amount payable from the Class Payout Fund
15 to each Settlement Class Member. 80% of which shall be allocated to penalties and disputed
16 interest, and 20% shall be allocated to wages.

17 **C.** “Class Notice” means the Court-approved Notice of Proposed Class Action
18 Settlement, substantially in the form attached hereto as **Exhibit 1** and incorporated by reference
19 herein, which will notify Class Members of, among other things, the following: the conditional
20 certification of the Class for settlement purposes, Preliminary Approval of the Settlement, the
21 basic terms of the Settlement, the calculation of Individual Settlement Payments, the procedures
22 for disputing and objecting to the Settlement, and requesting exclusion from the Settlement, and
23 the scheduling of the Final Approval Hearing. Following the Court’s Preliminary Approval of the
24 Settlement, the Settlement Administrator shall mail the Class Notice to all Class Members.

25 **D.** “Class Payout Fund” means all funds remaining from the Gross Settlement Amount
26 after deducting the Court-awarded Named Plaintiff Enhancement Payments, Fees Award, Costs
27 Award, and Settlement Administration Costs.

1 **E.** “Costs Award” means costs of litigation approved by the Court for Class Counsel’s
2 costs incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the
3 Settlement, including anticipated costs incurred through Final Approval and disbursement of
4 payments under this Settlement Agreement and obtaining entry of the judgment terminating the
5 Lawsuit.

6 **F.** “Court” means Los Angeles County Superior Court, located at 312 North Spring
7 Street, Los Angeles, California 90012.

8 **G.** “Defendant’s Counsel” means Sheppard, Mullin, Richter & Hampton LLP, and its
9 owners, principals, employees, Four Embarcadero Center, 17th Floor, San Francisco, CA 94111.

10 **H.** “Effective Date” means the date by which the final judgment becomes final. For
11 purposes of this Settlement Agreement, the final judgment “becomes final” only after 1) the Court
12 grants the motion for final approval of the Settlement and 2) after the latter of (i) the period for
13 filing any appeal, writ, or other appellate proceeding challenging or opposing the Settlement has
14 elapsed without any appeal, writ, or other appellate proceeding having been filed; (ii) any appeal,
15 writ or other appellate proceeding challenging or opposing the Settlement has been dismissed
16 finally and conclusively with no right to pursue further remedies or relief; or (iii) any appeal, writ
17 or other appellate proceeding has upheld the Court’s final order with no right to pursue further
18 remedies or relief and 3) Defendant has fully funded the Settlement pursuant to Section III(A)(3),
19 below. In this regard, it is the intention of the parties that the Settlement shall not become
20 effective, and Defendant will not be obligated to fund this Settlement, until the Court’s order
21 approving the Settlement is completely final, and there is no further recourse by an appellant,
22 objector, intervenor, or otherwise by anyone who seeks to contest the Settlement, and Defendant
23 has fully funded the Settlement.

24 **I.** “Fees Award” means attorneys’ fees approved by the Court for Class Counsel’s
25 fees incurred in investigation, litigation, and resolution of the Lawsuit, and administration of the
26 Settlement, including anticipated fees incurred through Final Approval and disbursement of
27 payments under this Settlement Agreement and obtaining entry of the judgment terminating the
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1 Lawsuit, and which shall not exceed one third (1/3) of the Gross Settlement Amount, i.e. up to
2 \$666,666.67.

3 **J.** “Final Approval” means the Court’s order granting final approval of the
4 Settlement.

5 **K.** “Gross Settlement Amount” means a non-reversionary common fund that shall
6 have a total all-in value of \$2,000,000.00 and includes without limitation any and all payments
7 Defendant may be responsible for under the Settlement, including any Fees Award and Costs
8 Award to Class Counsel, Named Plaintiff Enhancement Awards, the Class Member Payments,
9 Settlement Administration Costs, and all payroll taxes (exclusive of employer-side payroll taxes)
10 due and owing as a result of the Settlement. The total amount that Defendant shall pay for any and
11 all purposes under this Settlement Agreement is the Gross Settlement Amount.

12 **L.** “Lawsuit” means the Ralda Action and Seehof Action, which the Parties have
13 agreed to consolidate as part of this Settlement.

14 **M.** “Named Plaintiffs” means Edwin Ralda and Christina Seehof.

15 **N.** “Named Plaintiff Enhancement Awards” means the amount to be paid to each
16 Named Plaintiff for their time and effort spent pursuing the Lawsuit; for the risks associated with
17 suing Defendant; and for their agreement to enter into a general release of all claims, not to exceed
18 \$7,500.00 each, for a total of \$15,000.00.

19 **O.** “Net Settlement Amount” means the portion of the Maximum Settlement Amount
20 available for distribution to Participating Class Members after deduction of the Court-approved
21 attorney’s fees and costs to Class Counsel, Settlement Administration Costs, and the Named
22 Plaintiff Enhancement Awards.

23 **P.** “Qualified Settlement Account” means the account established by the Settlement
24 Administrator pursuant to Internal Revenue Code section 1.468B-1.

25 **Q.** “Ralda Action” means the lawsuit entitled *Edwin Ralda v. Smart & Final Stores*
26 *LLC*, filed in Los Angeles County Superior Court, Case No. 18STCV08098.

27 **R.** “Released Parties” means Defendant, and each of its past, present and future
28 agents, employees, servants, officers, directors, partners, trustees, representatives, shareholders,

1 stockholders, attorneys, parents, subsidiaries, equity sponsors, related companies/corporations
2 and/or partnerships (defined as a company/corporation and/or partnership that is, directly or
3 indirectly, under common control with Defendant or any of its parents and/or affiliates), divisions,
4 assigns, predecessors, successors, insurers, consultants, joint ventures, any actual or alleged joint
5 employers, affiliates, and alter-egos, and all of their respective past, present and future employees,
6 directors, officers, agents, attorneys, insurers, stockholders, fiduciaries, parents, subsidiaries, and
7 assigns.

8 **S.** “Seehof Action” means the lawsuit entitled *Christina Seehof v. Smart & Final*
9 *Stores LLC*, filed in Los Angeles County Superior Court, Case No. 19STCV27880.¹

10 **T.** “Settlement Administration Costs” means the costs payable from the Gross
11 Settlement Amount to the Settlement Administrator for administering this Settlement, including,
12 but not limited to, the Settlement Administrator’s responsibilities outlined in this Settlement
13 Agreement.

14 **U.** “Settlement Administrator” means CPT Group, Inc., whom the Parties mutually
15 agree shall be responsible for the administration of the Settlement, distribution of any amounts
16 owed under this Settlement, and matters necessarily related thereto, pursuant to the terms of this
17 Settlement Agreement.

18 **V.** “Settlement Class” means all persons employed by Defendant during the
19 Settlement Class Period in a non-exempt store position in California who did not sign an
20 arbitration agreement.

21 **W.** “Settlement Class Members” means individuals in the Settlement Class who do not
22 submit a timely and valid request for exclusion from the Settlement Class.

23 **X.** “Settlement Class List” means the list of the Settlement Class that Defendant will
24 diligently and in good faith compile from its records to accurately reflect employees’ names, last
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27 ¹ Seehof improperly named “Smart & Final Stores, Inc.” as the Defendant in the Seehof Action.
28 The Parties filed a stipulation to dismiss this entity and substitute in Smart & Final Stores LLC,
the proper defendant employer.

1 known mailing address, telephone number, Social Security number, date of birth, and workweeks
2 worked during the Settlement Class Period.

3 **Y.** “Settlement Class Period” means the time period beginning December 14, 2014 to
4 October 12, 2021.

5 **II. RECITALS**

6 **A. Background and Procedural History**

7 1. On December 12, 2018, Plaintiff Edwin Ralda (“Ralda”) filed the Ralda
8 Action, a class action Complaint alleging causes of action for: (1) Failure to Provide Meal
9 Periods; (2) Failure to Provide Rest Periods; (3) Failure to Pay Minimum and Regular Wages; (4)
10 Failure to Pay All Overtime Wages; (5) Failure to Indemnify All Necessary Work Expenses; (6)
11 Failure to Provide Accurate Itemized Wage Statements; (7) Failure to Timely Pay Wages Due
12 Upon Separation of Employment; (8) Violation of Business & Professions Code §§ 17200, *et seq.*;
13 and (9) Violation of the Private Attorneys General Act of 2004, Labor Code §§ 2698, *et seq.*

14 2. Defendant filed an Answer to Ralda’s Complaint on January 16, 2019.

15 3. On August 13, 2019, Plaintiff Christina Seehof (“Seehof”) filed the Seehof
16 Action, a class action Complaint alleging causes of action for: (1) Violation of California Labor
17 Code §§ 510 and 1198 (Unpaid Overtime); (2) Violation of California Labor Code §§ 1194, 1197,
18 and 1197.1 (Unpaid Minimum Wages); (3) Violation of California Labor Code §§ 226.7 and
19 512(a) (Unpaid Meal Period Premiums); (4) Violation of California Labor Code § 226.7 (Unpaid
20 Rest Period Premiums); (5) Violation of California Labor Code §§ 201 and 202 (Wages Not
21 Timely Paid Upon Termination); (6) Violation of California Labor Code § 226(a) (Non-Compliant
22 Wage Statements); (7) Violation of Labor Code §§ 2698, *et seq.* (“PAGA”); and (8) Violation of
23 California Business & Professions Code §§ 17200, *et seq.*

24 4. Defendant filed an Answer to Seehof’s Complaint on September 12, 2019.

25 5. On March 4, 2021, the Court entered an Order dismissing the PAGA claims
26 from the Ralda Action and the Seehof Action, respectively.

1 6. On March 31, 2021, Ralda and Seehof and Smart & Final attended a full-
2 day mediation with mediator Mark Rudy, but were not able to reach a settlement on that date. The
3 Parties continued to engage in informal settlement discussions while litigating the case.

4 7. The Parties ultimately reached a settlement, the terms of which were
5 memorialized in a binding MOU agreed to by the parties on or around June 7, 2021, and are now
6 more fully memorialized in this Settlement Agreement.

7 **B.** Throughout the pendency of the Ralda Action and Seehof Action, the Parties
8 engaged in extensive discovery, informally exchanged documents and information for settlement
9 purposes, including in connection with mediation, and produced documents and information in
10 response to formal discovery requests.

11 **C.** Named Plaintiffs have fully investigated the factual and legal bases for the causes
12 of action asserted in the Lawsuit. As a result of their investigation, Named Plaintiffs continue to
13 believe their claims are viable and that Defendant violated the California Labor Code. Defendant
14 has denied all allegations and contends that the claims asserted in the Lawsuit have no merit and
15 cannot give rise to liability on behalf of Defendant. Given the disagreement between the Parties as
16 to the viability of these claims, the Parties believe the Settlement provided for herein is a fair,
17 adequate and reasonable settlement.

18 **D.** Named Plaintiffs recognize the expense and length of continued proceedings
19 necessary to continue the litigation against Defendant through trial and through any possible
20 appeals. Named Plaintiffs have also taken into account the uncertainty and risk of the outcome of
21 further litigation, the difficulties and delays inherent in such litigation, and Defendant's
22 contentions that putative class members entered into arbitration agreements containing class action
23 waivers that preclude them from participating in or proceeding with the Lawsuit as a class action.
24 Named Plaintiffs are also aware of the burdens of proof necessary to establish liability for the
25 claims asserted in the Lawsuit, Defendant's defenses thereto, and the difficulties in establishing
26 damages for Settlement Class Members. Named Plaintiffs have also taken into account the
27 discovery undertaken and settlement negotiations conducted, which negotiations resulted in the
28 material settlement terms set forth herein. Based on the foregoing, Named Plaintiffs have

1 determined that the Settlement set forth in this Settlement Agreement is a fair, adequate and
2 reasonable settlement, and is in the best interests of Settlement Class Members.

3 **E.** Defendant has concluded that any further defense of this litigation would be
4 protracted and expensive for all Parties. Defendant has devoted substantial amounts of time,
5 energy and resources to the defense of the claims asserted in the Lawsuit and, unless this
6 Settlement is made, will continue to do so for the foreseeable future. For these reasons, Defendant
7 has agreed to settle the matter upon the terms set forth in this Settlement Agreement, to put to rest
8 the claims as set forth in the Lawsuit.

9 **F.** Defendant has denied and continues to deny each of the claims and contentions
10 alleged in the Lawsuit. Defendant has repeatedly asserted and continues to assert defenses thereto,
11 and has expressly denied and continues to deny any wrongdoing or legal liability arising out of
12 any of the facts or conduct alleged in the Lawsuit. Defendant also has denied and continues to
13 deny, *inter alia*, the allegations that the Settlement Class has suffered damages; that Defendant
14 improperly failed to pay the Settlement Class all wages owed; that Defendant failed to properly
15 provide meal and rest periods; that Defendant provided the Settlement Class with inaccurate wage
16 statements; that Defendant failed to timely pay all wages due during employment or at the
17 separation of employment; that Defendant failed to reimburse business expenses; that Defendant
18 violated any provisions of the California Labor Code or any IWC Wage Order; that Defendant
19 engaged in any unlawful, unfair or fraudulent business practices; that Defendant engaged in any
20 other wrongful conduct as alleged in the Lawsuit; or that the Settlement Class was harmed by the
21 conduct alleged in the Lawsuit. Neither this Settlement Agreement, nor any document referred to
22 or contemplated herein, nor any action taken to carry out this Settlement Agreement, is, may be
23 construed as, or may be used as, an admission, concession or indication by or against Defendant of
24 any fault, wrongdoing or liability whatsoever.

25 **G.** Named Plaintiffs claim and continue to claim that the claims released by this
26 Settlement Agreement have merit and give rise to liability on the part of Defendant. Neither this
27 Settlement Agreement nor any documents referred to herein, or any action taken to carry out this
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1 Settlement Agreement is, may be construed as, or may be used as an admission, by or against
2 Class Settlement Members or Class Counsel as to the merits or lack thereof of the claims asserted.

3 **I.** The Parties stipulate, subject to the approval of the Court, that the Lawsuit is being
4 compromised and settled pursuant to the terms and conditions set forth in this Settlement
5 Agreement. Upon Final Approval of the Settlement by the Court at or after the Final Approval
6 hearing, the Parties shall present a Proposed Final Judgment (attached as Exhibit 3 hereto) to the
7 Court for its approval, requesting that the Court enter judgment and retain jurisdiction with respect
8 to the interpretation, implementation, and enforcement of the terms of this Settlement Agreement
9 and all orders and judgments entered in connection therewith.

10 **III. SETTLEMENT TERMS**

11 **A. Funding and Allocation of Settlement**

12 1. Gross Settlement Amount. Provided the Court approves the Settlement and
13 the Effective Date occurs, Smart & Final will pay the Gross Settlement Amount, which is the
14 maximum monetary amount payable by Smart & Final and which shall not exceed the sum of
15 \$2,000,000.00. No portion of the Gross Settlement Amount shall revert to Defendant.

16 2. Settlement Accounting. No more than ten (10) days after the Effective Date
17 or at a reasonable time thereafter if not reasonably practicable, the Settlement Administrator will
18 provide the Parties with an accounting of all anticipated payments from the Qualified Settlement
19 Account, including: (a) Class Member Payments, (b) the Named Plaintiff Enhancement Awards;
20 (c) the Fees Award and Costs Award to Class Counsel, and (e) Settlement Administration
21 Expenses, all as specified in this Settlement Agreement and approved by the Court (the
22 “Settlement Accounting”).

23 3. Funding the Settlement. Within thirty (30) days after receipt of the
24 Settlement Accounting from the Settlement Administrator, and solely for purposes of this
25 Settlement, Defendant shall wire the Gross Settlement Amount into the Qualified Settlement
26 Account, for distribution in accordance with the terms of this Settlement Agreement. At no time
27 prior to this funding deadline shall Defendant have the obligation to segregate the funds
28 comprising the Gross Settlement Amount from other assets. Defendant will retain exclusive

1 authority over, and responsibility for, those funds until the date those amounts are required to be
2 funded pursuant to this Settlement Agreement.

3 **B. Payments from the Gross Settlement Amount.**

4 1. Named Plaintiff Enhancement Award. The Settlement Administrator shall
5 pay any Named Plaintiff Enhancement Awards within ten (10) days of the Effective Date either by
6 check or wire to an account(s) designated by Class Counsel. Named Plaintiffs agree to provide the
7 Settlement Administrator with an executed IRS Form W-9 within five days after the Effective
8 Date and before the Named Plaintiff Enhancement Awards are issued. The Settlement
9 Administrator shall issue an IRS Form 1099 to Named Plaintiffs for these payments. Named
10 Plaintiffs shall be solely and legally responsible for paying any and all applicable taxes on their
11 Named Plaintiff Enhancement Awards and shall hold Defendant harmless from any claim or
12 liability for taxes, penalties or interest arising as a result of the Named Plaintiff Enhancement
13 Awards. The Named Plaintiff Enhancement Awards shall be in addition to any Class Member
14 Payments the Named Plaintiffs receive as Settlement Class Members. If the Court awards Named
15 Plaintiff Enhancement Awards less than \$7,500.00 each, the unawarded amounts shall remain in
16 the Class Payout Fund and be distributed to Settlement Class Members.

17 2. Class Counsel's Attorneys' Fees and Costs. Class Counsel may request a
18 Fees Award of up to \$666,666.67, which constitutes one-third (1/3) of the Gross Settlement
19 Amount. Class Counsel will seek a Costs Award for reimbursement of Class Counsel's out-of-
20 pocket costs incurred pursuing the Lawsuit, not to exceed \$27,000.00. Class Counsel shall submit
21 their motion for fees and costs to the Court prior to the Final Approval hearing. Defendant shall
22 not challenge Class Counsel's request for Fees and Costs. If the Court awards Class Counsel less
23 than the amounts requests and provided for in his Agreement, the remainder will become part of
24 the Net Settlement Amount to be distributed to Settlement Class Members.

25 a. The Settlement Administrator shall pay any Fees Award and/or
26 Costs Award within ten (10) days of receipt of funding by Defendant either by check or wire to an
27 account designated by Class Counsel. Class Counsel agrees to provide the Settlement
28 Administrator with an executed IRS Form W-9 within five days after the Effective Date and

1 before payments for Class Counsel's Fees Award and Costs Award are issued. The Settlement
2 Administrator shall issue an IRS Form 1099 to Class Counsel for the payments made pursuant to
3 this section. Class Counsel shall be solely and legally responsible for paying any and all
4 applicable taxes on their Fees Award or Costs Award and shall hold Defendant harmless from any
5 claim or liability for taxes, penalties or interest arising as a result of any payments received by
6 Class Counsel pursuant to this Agreement. If the Court awards a Fees Award or a Costs Award
7 less than the amount requested by Class Counsel, the unawarded amounts shall remain in the Class
8 Payout Fund and be distributed to Settlement Class Members. This Settlement is not contingent
9 upon the Court awarding Class Counsel any particular amount in attorneys' fees and costs.

10 b. Neither Class Counsel nor any other current or past counsel for
11 Named Plaintiffs shall be permitted to petition the Court for, or accept, any additional payments
12 for fees, costs, or interest, and the Fees Award and Costs Award shall be for all claims for
13 attorneys' fees and costs whenever incurred, including past, present and future fees and costs
14 incurred in the Lawsuit to date and through and including the Effective Date, as well as final
15 distribution of all payments under this Settlement Agreement and through and after final
16 judgment. Upon the Effective Date, payment of the Fees Award and Costs Award to Class
17 Counsel as set forth herein shall constitute full satisfaction of the obligation to pay any amounts to
18 any person, attorney or law firm for attorneys' fees, expenses or costs arising out of and/or in
19 connection with the Lawsuit incurred by any attorney on behalf of Named Plaintiffs and/or any of
20 the Settlement Class Members, and shall relieve Settlement Class Members, Defendant, the
21 Settlement Administrator, the Qualified Settlement Account, and Defendant's Counsel of any
22 other claims or liability to any other attorney or law firm for any attorneys' fees, expenses and/or
23 costs to which any of them may claim to be entitled on behalf of Named Plaintiffs and/or any of
24 the Settlement Class Members in connection with the claims released in this Settlement.

25 3. Settlement Administration Costs. The Settlement Administrator shall pay
26 from the Qualified Settlement Account the Court-approved Settlement Administration Costs,
27 within ten (10) days of the Effective Date, in an amount not to exceed \$27,500. In the event that
28 the Court awards less than the full amount requested for Settlement Administration Costs, the

1 unawarded amounts shall remain in the Class Payout Fund and shall be distributed to Settlement
2 Class Members.

3 4. Calculation of Class Member Payments. All Settlement Class Members
4 will receive a Class Member Payment, paid from the Class Payout Fund without the need to make
5 a claim. The Parties agree that 80% of the Class Member Payments shall be allocated to penalties
6 and disputed interest, and 20% shall be allocated to wages.

7 a. The amount of each Class Member Payment will be calculated on a
8 pro rata basis, based on the number of workweeks each Settlement Class Member worked during
9 the Settlement Class Period. To establish the workweek value, the Settlement Administrator will
10 first determine the total number of workweeks worked by all Settlement Class Members during
11 the Settlement Period. The workweek value will be equal to the Class Payout Fund divided by the
12 total number of workweeks worked by all Settlement Class Members during the Settlement Class
13 Period. The workweek value will be rounded to the nearest cent. The Class Member Payment to
14 each Settlement Class Member will be determined by multiplying the workweek value by the total
15 number of workweeks each Settlement Class Member worked during the Settlement Class Period.
16 The total of all Class Member Payments to all Settlement Class Members shall equal the Class
17 Payout Fund. There is no need for a Settlement Class Member to submit a claim form in order to
18 be eligible for and to receive a Class Member Payment. Any partial workweek will be rounded up
19 to the nearest full workweek. Class Member Payments will be reduced by any required
20 deductions for each Settlement Class Member.

21 5. No Effect on Employee Benefits. The Named Plaintiff Enhancement
22 Awards, and Class Member Payments, paid to Named Plaintiffs and Settlement Class Members
23 shall be deemed not to be pensionable earnings and shall not have any effect on the eligibility for,
24 or calculation of, any employee benefits (e.g., vacations, holiday pay, retirement plans, etc.) of the
25 respective Named Plaintiffs or Settlement Class Members. The Parties agree that any Named
26 Plaintiff Enhancement Awards and Class Member Payments, paid to Named Plaintiffs and
27 Settlement Class Members under the terms of this Settlement Agreement do not represent any
28 modification of Named Plaintiffs' or Settlement Class Members' previously credited hours of

1 service or other eligibility criteria under any employee pension benefit plan or employee welfare
2 benefit plan sponsored by Defendant. Further, any Named Plaintiff Enhancement Awards or Class
3 Member Payments shall not be considered “compensation” in any year for purposes of
4 determining eligibility for, or benefit accrual within, an employee pension benefit plan or
5 employee welfare benefit plan sponsored by Defendant.

6 **C. Taxation**

7 1. Tax Treatment of Class Member Payments. Each Class Member Payment
8 shall be allocated between taxable and non-taxable consideration as follows: 20% will be
9 allocated to alleged unpaid wages for which an IRS Form W-2 will issue, and 80% will be
10 allocated to alleged penalties, reimbursement of expenses and interest for which an IRS Form
11 1099 will issue, if required by law. The Settlement Administrator will be responsible for
12 calculating the employee-side taxes owed on the wage portion of each Class Member Payment and
13 deducting and paying these amounts to the appropriate state and federal agencies, within the
14 timing required by applicable state and federal law. Each Settlement Class Member shall be
15 responsible for ensuring that any employee-side taxes due on his or her settlement are paid.

16 2. Tax Liability. The Parties make no representation as to the tax treatment or
17 legal effect of the payments called for hereunder, and the Parties and Settlement Class Members
18 are not relying on any statement, representation, or calculation by any of the Parties or by the
19 Settlement Administrator in this regard. Named Plaintiffs and Settlement Class Members
20 understand and agree that except for the employer’s portion of any payroll taxes, Named Plaintiffs
21 and Settlement Class Members will be solely responsible for the payment of any taxes and
22 penalties assessed on the payments described herein and will hold Named Plaintiffs, Class
23 Counsel, Defendant, Defendant’s Counsel and the Settlement Administrator free and harmless
24 from and against any claims resulting from treatment of such payments as non-taxable damages.
25 Each Party to this Settlement Agreement (for purposes of this section, the “acknowledging Party”
26 and each party to this agreement other than the acknowledging Party, an “other Party”)
27 acknowledges and agrees that (1) no provision of this Settlement Agreement, and no written
28 communication or disclosure between or among the Parties or their attorneys and other advisers, is

1 or was intended to be, nor shall any such communication or disclosure constitute or be construed
2 or be relied upon as, tax advice within the meaning of United States Treasury Department Circular
3 230 (31 C.F.R. Part 10, as amended); (2) the acknowledging Party (a) has relied exclusively upon
4 their own, independent legal and tax counsel for advice (including tax advice) in connection with
5 this Settlement Agreement, (b) has not entered into this Settlement Agreement based upon the
6 recommendation of any other Party or any attorney or advisor to any other Party, and (c) is not
7 entitled to rely upon any communication or disclosure by any attorney or advisor to any other
8 Party to avoid any tax penalty that may be imposed on the acknowledging Party; and (3) no
9 attorney or advisor to any other Party has imposed any limitation that protects the confidentiality
10 of any such attorney's or adviser's tax strategies (regardless of whether such limitation is legally
11 binding) upon disclosure by the acknowledging Party of the tax treatment or tax structure of any
12 transaction, including any transaction contemplated by this Settlement Agreement.

13 Defendant remains responsible for any employer-side payroll taxes payable on the
14 wage portion of the Class Member Payments.

15 **D. Conditional Certification**

16 For the purposes of this Settlement Agreement only, the Parties agree to the certification of
17 the Settlement Class. If, for any reason, the Settlement Agreement is not approved, the stipulation
18 to certification will be void. Should the Settlement Agreement not become final, for whatever
19 reason, the fact that the Parties were willing to stipulate to class certification as part of the
20 Settlement shall have no bearing on, and shall not be admissible in connection with, the issue of
21 whether a class should be certified in a non-settlement context in the Lawsuit (or in either the
22 Ralda Action or the Seehof Action), and shall have no bearing on, and shall not be admissible in
23 connection with, the issue of whether a class should be certified in any other lawsuit.

24 **E. Consolidation**

25 Within fifteen (15) days after the execution of this Settlement Agreement, the Parties will
26 file a stipulation and request the Court's approval to consolidate the Ralda Action and the Seehof
27 Action for all purposes.

28 **F. Release of Claims**

1 1. Class Member Release. As of the date of the Effective Date, Settlement
2 Class Members fully and finally release the Released Parties from any and all Class Released
3 Claims. The Class Released Claims include, but are not limited to, all claims arising from, or
4 arising in connection with, the facts, theories, primary rights, or claims alleged in the Lawsuit, or
5 that could have been alleged based upon the facts, theories, or claims alleged in the Lawsuit or the
6 primary rights at issue. The Class Released Claims include, but are not limited to, all claims for
7 unpaid wages, including, but not limited to, failure to pay minimum wages; failure to pay straight
8 time compensation, overtime compensation, double-time compensation, reporting time
9 compensation, and/or interest, including claims for failure to include premium pay and non-
10 discretionary bonuses in the regular rate of pay; failure to pay for any off-the-clock work,
11 including without limitation time spent opening and closing stores, transferring inventory between
12 stores, during conference calls or other work-related phone calls, for failure to pay workers for the
13 time spent donning and doffing work uniforms and entering or leaving Defendant's premises,
14 including but not limited to undergoing security checks, or any other off-the-clock work; missed,
15 late, short, interrupted or on-duty meal and/or rest periods, including any claim for any failure to
16 pay premiums including without limitation for missed, late, short, interrupted or on-duty meal or
17 rest periods, or failure to pay such premiums at the regular rate of compensation; reimbursement
18 for business expenses or any other claim that Defendant allowed or required employees to bear
19 any of the costs associated with the operation of Defendant's business, including without
20 limitation the use of personal cell phones, home office/computers and mileage; inaccurate or
21 otherwise improper wage statements and/or failure to keep or maintain accurate records; unlawful
22 deductions; unlawful payment instruments; paid sick leave, including that sick leave was
23 calculated at an incorrect rate of pay; any claim for unfair business practices arising out of or
24 related to any or all of the aforementioned claims; any claim for penalties arising out of or related
25 to any or all of the aforementioned claims, including, but not limited to, recordkeeping penalties,
26 wage statement penalties, minimum-wage penalties, liquidated damages, and waiting-time
27 penalties; interest; and attorneys' fees and costs. The Class Released Claims include all such
28 claims arising from, or arising in connection with, the facts or claims alleged in the Lawsuit, or

1 that could have been alleged based upon the facts or claims alleged in the Lawsuit or the primary
2 rights implicated, under the California Labor Code (including claims under Labor Code §§ 201,
3 202, 203, 204, 206.5, 210, 218.5, 218.6, 221, 223, 224, 226, 226.3, 226.7, 227.3, 510, 512, 558,
4 558.1, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1198, 2802); and claims under the Wage Orders
5 of the California Industrial Welfare Commission, including IWC Wage Order No. 7-2001;
6 California Code of Civil Procedure § 1021.5; the Fair Labor Standards Act, 29 U.S.C. § 201 *et*
7 *seq.*; and California Business & Professions Code §§ 17200 *et seq.*

8 The Class Released Claims expressly excludes claims for civil penalties under the
9 California Private Attorneys General Act of 2004 (“PAGA”).

10 2. General Release By Named Plaintiffs Only. As of the date of Effective
11 Date, Named Plaintiffs fully and finally release the Released Parties from any and all claims,
12 known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common
13 law, or other source of law, including but not limited to claims arising from or related to Plaintiffs’
14 employment with Defendant and/or the termination of Plaintiffs’ employment (“Plaintiffs’
15 Released Claims”). Plaintiffs’ Released Claims include, but are not limited to, all claims asserted
16 in, arising from or related in any way to the Lawsuit, including without limitation any and all
17 claims that could have been asserted as part of the Lawsuit based on the facts, theories, and claims
18 alleged. Plaintiffs’ Released Claims include all claims for unpaid wages, including, but not
19 limited to, failure to pay minimum wages; failure to pay straight time compensation, overtime
20 compensation, double-time compensation, reporting time compensation, and/or interest, including
21 claims for failure to include premium pay and non-discretionary bonuses in the regular rate of pay;
22 failure to pay for any off-the-clock work including without limitation time spent opening and
23 closing stores, transferring inventory between stores, during conference calls or other work-related
24 phone calls, failure to pay workers for the time spent donning and doffing work uniforms and
25 entering or leaving Defendant’s premises, including but not limited to undergoing security checks,
26 or any other off-the-clock work; missed, late, short, interrupted or on-duty meal and/or rest
27 periods, including any claim for any alleged failure to pay premiums for missed, late, short,
28 interrupted or on-duty meal or rest periods, or failure to pay such premiums at the regular rate of

1 compensation; reimbursement for business expenses or any other claim that Defendant allowed or
2 required employees to bear any of the costs associated with the operation of Defendant's business,
3 including without limitation the use of personal cell phones and mileage; inaccurate or otherwise
4 improper wage statements and/or failure to keep or maintain accurate records; unlawful
5 deductions; unlawful payment instruments; paid sick leave, including that sick leave was
6 calculated at an incorrect rate of pay any claim for unfair business practices arising out of or
7 related to any or all of the aforementioned claims; any claim for penalties arising out of or related
8 to any or all of the aforementioned claims, including, but not limited to, recordkeeping penalties,
9 wage statement penalties, minimum-wage penalties, liquidated damages, and waiting-time
10 penalties; interest, and attorneys' fees and costs. Plaintiffs' Released Claims include all claims
11 arising under the California Labor Code (including, but not limited to, sections 200, 201, 201.3,
12 202, 203, 204, 206.5, 210, 212, 216, 218.5, 218.6, 221, 222.5, 223, 224, 225, 225.5, 226, 226.3,
13 226.7, 226.8, 227.3, 245, 246, 247, 248, 249, 450, 510, 511, 512, 558, 1174, 1174.5, 1182.12,
14 1194, 1194.2, 1197, 1197.1, 1198, 1198.5, 1199, 2698 *et seq.* and 2802;); all claims arising under
15 the Wage Orders of the California Industrial Welfare Commission, including IWC Wage Order
16 No. 7-2001; Private Attorneys General Act of 2004 (Labor Code §§ 2698 *et seq.*); California
17 Business and Professions Code section 17200, *et seq.*; Government Code; the California Civil
18 Code, including but not limited to, sections 3287, 3289, 3336 and 3294; California Code of Civil
19 Procedure § 1021.5; the California common law of contract; the Fair Labor Standards Act, 29
20 U.S.C. § 201 *et seq.*; federal common law; and the Employee Retirement Income Security Act, 29
21 U.S.C. § 1001, *et seq.* Plaintiffs' Released Claims also include all claims for lost wages and
22 benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising
23 under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful
24 termination, such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of
25 the Civil Rights Act of 1964, the Americans With Disabilities Act, the Age Discrimination in
26 Employment Act, and the California Fair Employment and Housing Act; and the law of contract
27 and tort.

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1 Named Plaintiffs' Released Claims include all claims, whether known or unknown.
2 Even if Named Plaintiffs discover facts in addition to or different from those that Named Plaintiffs
3 now know or believe to be true with respect to the subject matter of Named Plaintiffs' Released
4 Claims, those claims will remain released and forever barred. Thus, Named Plaintiffs expressly
5 waive and relinquish the provisions, rights and benefits of section 1542 of the California Civil
6 Code, which reads:

7 **A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS**
8 **THAT THE CREDITOR OR RELEASING PARTY DOES**
9 **NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER**
10 **FAVOR AT THE TIME OF EXECUTING THE RELEASE**
11 **AND THAT, IF KNOWN BY HIM OR HER, WOULD HAVE**
12 **MATERIALLY AFFECTED HIS OR HER SETTLEMENT**
13 **WITH THE DEBTOR OR RELEASED PARTY.**

14 3. Notwithstanding the foregoing, Named Plaintiffs do not waive or release
15 any claim which cannot be waived or released by private agreement. Further, nothing in this
16 Agreement shall prevent Named Plaintiffs from filing a charge or complaint with, or from
17 participating in, an investigation or proceeding conducted by the SEC, OSHA, EEOC, DFEH,
18 NLRB or any other federal, state or local agency charged with the enforcement of any
19 employment or other applicable laws. Named Plaintiffs, however, understand that by signing this
20 Agreement, Named Plaintiffs waive the right to recover any damages or to receive other relief in
21 any claim or suit brought by or through the EEOC, the DFEH or any other state or local deferral
22 agency on Named Plaintiffs' behalf to the fullest extent permitted by law, but expressly excluding
23 any monetary award or other relief available from the SEC/OSHA, including an SEC/OSHA
24 whistleblower award, or other awards or relief that may not lawfully be waived.

25 **G. Settlement Administrator Responsibilities**

26 1. The Settlement Administrator shall be responsible for preparing, printing
27 and mailing to the Settlement Class the Notice of Proposed Settlement of Class Action attached as
28 Exhibit 1 hereto (the "Class Notice") in the form approved by and as directed by the Court;
calculating Class Member Payments; calculating and withholding all required state and federal
taxes owed by the Settlement Class Members, and calculating all required state and federal taxes
owed by Defendant; keeping track of opt-outs and objections; drafting and mailing checks to

1 Settlement Class Members; distributing Named Plaintiff Enhancement Awards, the Fees Award,
2 the Costs Award, and Settlement Administration Costs; providing weekly status reports to counsel
3 for the Parties; providing a due diligence declaration for submission to the Court prior to the Final
4 Approval hearing and as otherwise required by the Court; and for such other tasks as the Parties
5 mutually agree or the Court orders the Settlement Administrator to perform. The Parties each
6 represent they do not have any financial interest in the Settlement Administrator or otherwise have
7 a relationship with the Settlement Administrator that could create a conflict of interest.

8 2. The Settlement Administrator’s determination of eligibility for, and the
9 amounts of, any Class Member Payment shall be conclusive, final and binding on all Parties,
10 including all Settlement Class Members.

11 3. To the extent any tax returns must be filed for the Gross Settlement Amount
12 pursuant to this Settlement Agreement, the Settlement Administrator shall cause to be timely and
13 properly filed all informational and other tax returns, if any, necessary with respect to the Gross
14 Settlement Amount. Such returns shall be consistent with this paragraph. Any expenses and/or
15 costs incurred in connection with the operation and implementation of this paragraph (including,
16 without limitation, reasonable expenses of tax attorneys, accountants or other designees retained
17 by the Settlement Administrator as required for the preparation and filing of tax returns described
18 in this paragraph) shall be treated as, and considered to be, a cost of administration of the
19 Settlement and shall be paid from the Settlement Administration Costs.

20 4. No person shall have any claim against Defendant, Defendant’s Counsel,
21 Named Plaintiffs, Class Counsel or the Settlement Administrator based on distributions and
22 payments made in accordance with this Settlement Agreement.

23 **H. Notice/Approval of Settlement and Settlement Implementation.** As part of this
24 Settlement, the Parties agree to the following procedures for obtaining preliminary approval of the
25 Settlement, notifying the Settlement Class, obtaining final Court approval of the Settlement, and
26 processing the settlement payments:

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1. Preliminary Approval of Settlement

a. Named Plaintiffs shall file a motion for preliminary approval of the Settlement in the Lawsuit and schedule the motion for hearing on October 12, 2021 (the date agreed on by the Parties as the earliest date for the Court to hear this motion). The class period end date of October 12, 2021 is expressly conditioned upon the preliminary approval hearing being noticed for October 12, 2021. Named Plaintiffs shall seek the entry of a Preliminary Approval Order for: (a) conditional certification of the Settlement Class for settlement purposes only, (b) Preliminary Approval of the proposed Settlement Agreement, and (c) setting a date for a Final Approval hearing.

b. In conjunction with the Preliminary Approval Hearing, Named Plaintiffs will submit this Settlement Agreement, which sets forth the terms of this Settlement, and will include proposed forms of all notices and other documents as attached hereto necessary to implement the Settlement. Simultaneous with the filing of the Stipulation of Settlement and solely for purposes of this Settlement, Named Plaintiffs will request the Court to enter the Preliminary Approval Order (“Preliminary Approval Order” or “Order”) (attached as Exhibit 2 hereto), preliminarily approving the proposed Settlement, and setting a hearing date to determine final approval of the Settlement. The Order shall provide for notice of the Settlement and related matters to be sent to Settlement Class Members as specified herein. Class Counsel will be responsible for drafting all documents necessary to obtain Preliminary Approval, subject to review and comment by Defendant’s Counsel who shall be provided a minimum of seven (7) days advance notice to review prior to any filing or due date.

2. Notice to Settlement Class.

a. Notice By First-Class Mail. Within ten (10) days after receipt of the Settlement Class List, the Settlement Administrator shall mail a class notice to Settlement Class via first-class regular U.S. mail (“Class Notice”). The Settlement Class will have thirty (30) days from the mailing of the Class Notice to opt-out of or object to the Settlement (“Opt Out/Objection Period”). Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database information to update and correct for any known or

1 identifiable address changes and, if necessary, perform reasonable skip-tracing efforts to locate the
2 Settlement Class. If a new address is obtained by way of a returned Class Notice, the Settlement
3 Administrator shall forward the original Class Notice to the updated address via first-class regular
4 U.S. mail indicating on the original Class Notice the date of such re-mailing within five (5) days.

5 b. Notice Posted on Settlement Administrator's Website. The
6 Settlement Administrator shall maintain a website on which it will post the Class Notice, and any
7 Orders on Preliminary Approval and Final Approval in his Lawsuit, only. The URL of the website
8 will be provided in the Class Notice.

9 c. Delivery of the Settlement Class List. Within twenty-one (21) days
10 of entry of the Preliminary Approval Order of this Settlement, Defendant will provide the
11 Settlement Class List to the Settlement Administrator, which shall be used solely for the
12 administration of this Settlement and for no other purpose, and shall not be shared with any
13 persons or entity not employed by the Settlement Administrator and working on the administration
14 of this Settlement. Because sensitive personal information is included in the Settlement Class
15 List, the Settlement Administrator shall maintain the Settlement Class List securely and in
16 confidence. Access to such Settlement Class List shall be limited to employees of the Settlement
17 Administrator with a need to use the Settlement Class List for administration of the Settlement. In
18 the event that the Settlement Agreement is not finally approved by the Court, or if it is in any way
19 altered or disapproved on appeal, the Settlement Administrator shall not thereafter use the
20 Settlement Class List, and shall destroy any and all copies or versions of it (including any in
21 electronic form).

22 d. Notice Satisfies Due Process. Compliance with the notice
23 procedures specified in this Settlement Agreement shall constitute due and sufficient notice to the
24 Settlement Class of this Settlement and shall satisfy the requirements of due process. Nothing else
25 shall be required of, or done by, the Parties, Class Counsel or Defendant's Counsel to provide
26 notice of the proposed Settlement. In the event that the procedures in this Settlement Agreement
27 are followed and the intended recipient of a Notice of Settlement still does not receive the Notice
28 of Settlement (and does not opt out), the intended recipient shall be a Settlement Class Member

1 and will be bound by all the terms of the Settlement and the Final Approval entered by the Court if
2 the Settlement becomes effective.

3 3. Objections or Exclusions.

4 a. Procedure for Objecting. The Notice shall provide that individuals
5 in the Settlement Class who wish to object to the Settlement must either mail to the Settlement
6 Administrator a written statement objecting to the Settlement or appear at the Final Approving
7 Hearing in a manner consistent with the Court's then operative health guidelines. Any written
8 statement must be postmarked no later than thirty (30) days after the date the Class Notice is first
9 mailed (the "Objection/Exclusion Deadline Date"). The Parties will be permitted to respond in
10 writing to such objections prior to the Final Approval hearing. Any individual in the Settlement
11 Class who fails to timely object in the manner specified above shall remain Settlement Class
12 Members and shall be deemed to have waived any objections and shall be foreclosed from making
13 any objection (whether by appeal or otherwise) to the Settlement.

14 b. Procedure for Requesting Exclusion. The Class Notice shall provide
15 that individuals in the Settlement Class who wish to exclude themselves from the Settlement must
16 submit a signed, written statement requesting exclusion from the Settlement on or before the
17 Objection/Exclusion Deadline Date. The opt-out request must state that s/he wishes to exclude
18 him/herself from the Settlement Class.

19 (1) Such written request for exclusion must contain the name, address,
20 telephone number and last four digits of Social Security number of the person requesting
21 exclusion, must be returned by mail to the Settlement Administrator at the specified address, must
22 be signed by the individual in the Settlement Class personally, and must be postmarked on or
23 before the Objection/Exclusion Deadline Date. The date of the postmark on the return mailing
24 envelope shall be the exclusive means used to determine whether a request for exclusion has been
25 timely submitted. If the postmark is illegible then the request for exclusion must arrive within
26 three (3) calendar days after the Objection/Exclusion Deadline Date to be considered timely.

27 (2) Any individual in the Settlement Class who opts out of the
28 Settlement will not be entitled to any recovery under the Settlement and will not be bound by the

1 Settlement or have any right to object, appeal or comment in Court on the Settlement. Any and all
2 individuals in the Settlement Class who fail to submit a valid and timely request for exclusion on
3 or before the Objection/Exclusion Deadline Date shall be Settlement Class Members and shall be
4 bound by all terms of the Settlement and any final judgment entered in the Lawsuit if the
5 Settlement is approved by the Court.

6 c. No Solicitation of Settlement Objections or Exclusions. The Parties
7 agree to use their best efforts to carry out the terms of this Settlement. At no time shall any of the
8 Parties, or their counsel, seek to directly or indirectly solicit or otherwise encourage the Settlement
9 Class to submit written objections to the Settlement or requests for exclusion from the Settlement,
10 or appeal from the Court's final judgment.

11 4. Certification Reports by the Settlement Administrator.

12 a. The Settlement Administrator will, on a weekly basis during and for
13 a reasonable period following distribution of the Class Notice, provide updates to Class Counsel
14 and Defendant's Counsel as to the number of individuals in the Settlement Class who submitted (i)
15 valid opt-out requests for exclusion; and (ii) objections. All written objections shall be provided
16 to the Parties' counsel within five (5) calendar days of receipt by the Settlement Administrator.
17 To the extent practicable, the weekly updates shall also provide updated data on the extent of
18 Class Notices that are returned undeliverable and any re-mailing efforts.

19 b. Within ten (10) calendar days after the Objection/Exclusion
20 Deadline Date, the Settlement Administrator will prepare a declaration to be provided to Class
21 Counsel and Defendant's Counsel for filing in support of Named Plaintiffs' motion for final
22 approval attesting to the following: (i) its mailing efforts regarding the Class Notice; (ii) its receipt
23 of any valid and timely requests for exclusion, and its inability to deliver the Class Notice to the
24 Settlement Class, if any; (iii) the number of Settlement Class Members; (iv) the highest estimated
25 Class Member Payment, along with the estimated average Class Member Payment. The
26 Settlement Administrator will also prepare and submit to Class Counsel and Defendant's Counsel
27 for filing in support of the motion any supplemental declaration as may be needed.

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1 5. Right of Defendant to Reject Settlement.

2 a. Option to Void Settlement. If, after the Objection/Exclusion
3 Deadline Date, the number of employees in the Settlement Class who have timely submitted
4 requests for exclusion total in number more than two (2) percent of the Settlement Class,
5 Defendant shall have, in its sole discretion, the option to void this Settlement. In order to exercise
6 this option, Defendant must notify Class Counsel in writing within fifteen (15) days after the later
7 of the Objection/Exclusion Deadline Date, or of learning in writing from the Settlement
8 Administrator that the number of individuals in the Settlement Class who have timely submitted
9 requests for exclusion total in number more than two percent of the Settlement Class.

10 b. Nullification of Settlement Agreement. In the event: (i) the Court
11 does not enter the Order specified herein; (ii) the Court does not finally approve the Settlement as
12 provided herein; (iii) the Court does not enter a final judgment as provided herein which becomes
13 final as a result of the occurrence of the Effective Date; or (iv) the Settlement does not become
14 final for any other reason, this Settlement Agreement shall be null and void and any order or
15 judgment entered by the Court in furtherance of this Settlement shall be treated as void ab initio.
16 In such a case, the Parties and any funds to be awarded under this Settlement shall be returned to
17 their respective statuses as of the date and time immediately prior to the execution of this
18 Agreement, and the Parties shall proceed in all respects as if this Settlement Agreement had not
19 been executed, except that any fees already incurred by the Settlement Administrator shall be
20 borne equally by the Parties. In the event an appeal is filed from the Court's final judgment, or
21 any other appellate review is sought prior to the Effective Date, administration of the Settlement
22 shall be stayed pending final resolution of the appeal or other appellate review, pending the
23 Effective Date.

24 6. Final Approval Hearing and Entry of Final Judgment.

25 a. Upon expiration of the Opt Out/Objection Period, with the Court's
26 permission, a Final Approval hearing shall be conducted to determine final approval of the
27 Settlement along with the amount properly payable for (i) the Fees Award and Costs Award, (ii)
28 Named Plaintiffs Enhancement Awards, (iii) Settlement Administrator's Expenses, and (iv) Class

1 Member Payments. Upon final approval of the Settlement by the Court at or after the Final
2 Approval hearing, the Parties shall present a Proposed Final Judgment (attached as Exhibit 3
3 hereto) to the Court for its approval. Class Counsel will be responsible for drafting all documents
4 necessary to obtain Final Approval, including the Final Judgment.

5 b. The Settlement Administrator shall keep counsel for the Parties
6 apprised of all distributions from the Qualified Settlement Account and upon completion of
7 administration of that portion of the Settlement, the Settlement Administrator shall provide written
8 certification, under penalty of perjury, of such completion to the Court and counsel for all Parties.

9 c. Upon completion of administration of the Settlement, Named
10 Plaintiffs and Class Counsel shall provide written certification, under penalty of perjury, of such
11 completion to the Court and Defendant's Counsel.

12 d. The Settlement Administrator will provide Defendant with an
13 accounting of the employer-side payroll taxes owed within fifteen (15) days from the
14 Objection/Exclusion Deadline Date.

15 7. Administration Costs. All of Defendant's own legal fees, costs and
16 expenses incurred in the Lawsuit shall be borne by Defendant. As set forth above, claims
17 administration expenses will be paid from the Gross Settlement Amount. The Parties agree to
18 cooperate in the Settlement administration process and to make all reasonable efforts to control
19 and minimize the costs and expenses incurred in administration of the Settlement.

20 8. Unclaimed Funds. If any Individual Settlement Payments are returned as
21 undeliverable, the Settlement Administrator will take all steps necessary to locate an updated
22 mailing address for the Class Member, including without limitation, using Experian (or
23 substantially similar) in-depth skip-trace. In the event the Settlement Administrator is unable to
24 locate an updated address or the Individual Settlement Payments are returned as undeliverable
25 after a second mailing, the amount of any returned checks shall be redistributed to Class Members
26 as long as the cost of redistribution is not greater than the amount of uncashed funds.

27 If any checks remain uncashed one hundred and eighty (180) calendar days after
28 mailing to Class Members, the remaining funds shall be distributed by the Settlement

1 Administrator, in accordance with California Code of Civil Procedure section 384, to Legal Aid at
2 Work, a nonprofit organization that will benefit the class or similarly situated persons, and that
3 promotes the law consistent with the objectives and purposes of the underlying actions, including
4 providing civil legal services to the indigent in California.

5 **IV. Other Provisions**

6 **A. Publicity.** The Parties agree that neither Named Plaintiffs nor Class Counsel shall
7 issue any press release or announcement of any kind related in any way to the Settlement. Named
8 Plaintiffs and Class Counsel agree that, prior to preliminary approval of the Settlement, they will
9 keep the terms of the Settlement confidential except for purposes of communicating with Named
10 Plaintiffs only. Named Plaintiffs shall be informed that the Settlement is confidential and shall be
11 advised to keep the Settlement confidential. From and after preliminary approval of the
12 Settlement, Named Plaintiffs and Class Counsel may comment regarding the specific terms of the
13 Settlement (1) as required by law; (2) as required under the terms of the Settlement; or (3) as
14 required under counsel's duties and responsibilities as Class Counsel. In all other cases, Named
15 Plaintiffs and Class Counsel agree to limit their statements regarding the terms of the Settlement,
16 whether oral, written or electronic (including the world wide web), to say the Lawsuit, the Ralda
17 Action and the Seehof Action have been resolved and that Named Plaintiffs and Class Counsel are
18 satisfied with the terms of the Settlement. Class Counsel shall not, at any time, advertise or
19 mention the terms of the Settlement on personal or firm website(s); shall not discuss the terms of
20 the Settlement with media, general public, or issue press releases; and shall limit any statements
21 regarding the terms of the Settlement to that information that is publicly available. Nothing in this
22 Paragraph is intended to interfere with Class Counsel's duties and obligations to faithfully
23 discharge their duties as Class Counsel, including but not limited to, communicating with
24 Settlement Class Members regarding the Settlement.

25 **B. Privacy of Documents and Information.** Named Plaintiffs and Class Counsel
26 agree that none of the documents and information provided to them by Defendant shall be used for
27 any purpose other than settlement of the Lawsuit.

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C. No Admission By the Released Parties.

1. The Released Parties, including Defendant, deny any and all claims alleged in the Lawsuit and deny any and all wrongdoing whatsoever. This Settlement Agreement is not a concession or admission, and shall not be used against Defendant or any of the Released Parties as an admission or indication with respect to any claim of any fault, concession or omission by Defendant or any of the Released Parties. Whether or not the Settlement is finally approved, neither the Settlement, nor any document, statement, proceeding or conduct related to this Settlement Agreement, nor any reports or accounts thereof, shall in any event be: (1) construed as, offered or admitted in evidence as, received as, or deemed to be evidence for any purpose adverse to the Released Parties, including, but not limited to, evidence of a presumption, concession, indication or admission by any of the Released Parties of any liability, fault, wrongdoing, omission, concession or damage; or (2) disclosed, referred to or offered or received in evidence against any of the Released Parties, in any further proceeding in the Lawsuit, or any other civil, criminal or administrative action or proceeding, except for purposes of settling the Lawsuit pursuant to this Settlement Agreement.

2. The Released Parties, including Defendant, shall have the right to use this Settlement, including the Releases set forth above, to defend against any claims asserted by or on behalf of Settlement Class Members that are encompassed within the Releases, whether such claims are asserted in the Lawsuit or any other lawsuit or proceeding.

D. Exhibits and Headings. The terms of this Settlement Agreement include the terms set forth in any attached Exhibits 1-3, which are incorporated by this reference as though fully set forth herein. Any Exhibits to this Settlement Agreement are an integral part of the Settlement. The descriptive headings of any paragraphs or sections of this Settlement Agreement are inserted for convenience of reference only and do not constitute a part of this Settlement Agreement.

E. Interim Stay of Proceedings. The Parties agree to hold all proceedings in the Lawsuit, except such proceedings necessary to implement and complete the Settlement including

1 without limitation specifically to effect consolidation, in abeyance pending the Final Approval
2 hearing to be conducted by the Court.

3 **F. Amendment or Modification.** This Settlement Agreement may be amended or
4 modified only by a written instrument signed by all Parties or their successors-in-interest.

5 **G. Entire Agreement.** This Settlement Agreement and any attached Exhibits
6 constitute the entire agreement among these Parties with respect to resolution of the Lawsuit. To
7 the extent there are any other oral or written agreements relating to the subject matter of this
8 Settlement Agreement, this Settlement Agreement controls and supersedes all such agreements.
9 No oral or written representations, warranties or inducements have been made to any Party
10 concerning this Settlement Agreement or its Exhibits other than the representations, warranties
11 and covenants contained and memorialized in this Settlement Agreement and any attached
12 Exhibits.

13 **H. Authorization to Enter Into Settlement Agreement.** Counsel for all Parties
14 warrant and represent they are expressly authorized by the Parties whom they represent and who
15 are signing this Settlement Agreement, to negotiate this Settlement Agreement and to take all
16 appropriate action required or permitted to be taken by such Parties pursuant to this Settlement
17 Agreement to effectuate its terms, and to execute any other documents required to effectuate the
18 terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other
19 and use their best efforts to effect the implementation of the Settlement.

20 **I. Binding on Successors and Assigns.** This Settlement Agreement shall be binding
21 upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously
22 defined.

23 **J. California Law Governs.** All terms of this Settlement Agreement and the
24 Exhibits hereto shall be governed by and interpreted according to the laws of the State of
25 California.

26 **K. Counterparts.** This Settlement Agreement may be executed in one or more
27 counterparts. All executed counterparts and each of them shall be deemed to be one and the same
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1 instrument provided that counsel for the Parties to this Settlement Agreement shall exchange
2 among themselves original signed counterparts.

3 **L. This Settlement is Fair, Adequate and Reasonable.** The Parties believe this
4 Settlement is a fair, adequate and reasonable settlement of the Lawsuit and have arrived at this
5 Settlement in arms-length negotiations, taking into account all relevant factors, present and
6 potential. This Settlement was reached after extensive negotiations and mediation with a well-
7 renowned class action mediator.

8 **M. Jurisdiction.** The Court shall retain jurisdiction with respect to the interpretation,
9 implementation and enforcement of the terms of this Settlement Agreement and all orders and
10 judgments entered in connection therewith, and the parties and their counsel hereto submit to the
11 jurisdiction of the Court for purposes of interpreting, implementing and enforcing the settlement
12 embodied in this Settlement Agreement and all orders and judgments entered in connection
13 therewith.

14 **N. Cooperation and Drafting.** Each of the parties has cooperated in the drafting and
15 preparation of this Settlement Agreement. Hence, in any construction made to this Settlement
16 Agreement, the same shall not be construed against any of the Parties.

17 **O. Invalidity of Any Provision.** Before declaring any provision of this Settlement
18 Agreement invalid, the Court shall first attempt to construe the provisions valid to the fullest
19 extent possible consistent with applicable precedents so as to define all provisions of this
20 Settlement Agreement valid and enforceable.

21 **P. Named Plaintiff General Release Remains Effective.** Named Plaintiffs agree to
22 sign this Settlement Agreement, and by signing this Settlement Agreement are bound by the terms
23 herein stated upon final approval, including without limitation the general release set forth above.
24 Named Plaintiffs shall retain their rights to participate as Settlement Class Members under this
25 Settlement Agreement, and agree that they may not opt out of the Settlement.

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PLAINTIFF

Date: 9/16/2021

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Edwin Ralda
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EDWIN RALDA

PLAINTIFF

Date: _____

CHRISTINA SEEHOF

DEFENDANT SMART & FINAL STORES LLC

Date: _____

By: _____
Its: LELAND P. SMITH
GENERAL COUNSEL

APPROVED AS TO FORM

GRAHAM HOLLIS APC

Date: 9/17/2021

[Signature]

GRAHAM HOLLIS
Attorneys for Plaintiff Edwin Ralda

THE BAINER LAW FIRM

Date: _____

MATTHEW R. BAINER
Attorneys for Plaintiff Christina Seehof

**SHEPPARD, MULLIN, RICHTER & HAMPTON
LLP**

Date: _____

Paul S. Cowie
Attorneys for Defendant Smart & Final Stores LLC

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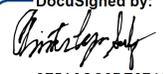
PLAINTIFF

Date: _____

EDWIN RALDA

PLAINTIFF

Date: 9/16/2021

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CHRISTINA SEEHOF

DEFENDANT SMART & FINAL STORES LLC

Date: _____

By: LELAND P. SMITH
Its: GENERAL COUNSEL

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PLAINTIFF

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EDWIN RALDA

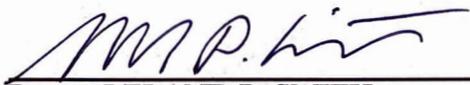
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CHRISTINA SEEHOF

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Paul S. Cowie
Attorneys for Defendant Smart & Final Stores LLC