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PAGA SETTLEMENT AGREEMENT

Subject to Court approval by the United States District Court for the Central District of California ("Court"), Plaintiff Terri Gibson ("Plaintiff"), as a representative of the California Labor and Workforce Development Agency ("LWDA") pursuant to the Labor Code Private Attorneys General Act of 2004 ("PAGA"), and Defendants Swift Transportation Company of Arizona, LLC and Swift Transportation Services, LLC ("Defendants") (collectively with Plaintiff, the "Parties"), hereby agree to the following binding settlement ("Settlement" or "Settlement Agreement") of the action entitled *Terri Gibson v. Swift Transportation Company of Arizona, LLC et al.*, United States District Court for the Central District of California, Case No. 5:20-cv-00318-ODW-SP (the "Action").

DEFINITIONS

The following definitions are applicable to this Settlement Agreement. Definitions contained elsewhere in this Settlement Agreement will also be effective:

1. "Allegedly Aggrieved Employees" means all persons who have been, or currently are, employed by Defendants or any related corporate entity in California during the Relevant Period and who hold or held, job positions which Defendants classify as hourly and/or non-exempt non-driver positions. There are approximately 232 Allegedly Aggrieved Employees.
2. "Relevant Period" means the period from February 18, 2019 through April 30, 2021.
3. "Effective Date" means the date upon which both of the following have occurred: (i) approval of the PAGA Settlement is granted by the Court, or other court assuming jurisdiction of this matter, and (ii) the Court's Judgment approving the Settlement becomes Final. Final shall mean the latest of: (i) if there is an appeal of the Court's Judgment, the date the Judgment is affirmed on appeal, the date of dismissal of such appeal, or the expiration of the time to file a petition for writ of certiorari to the

United States Supreme Court or California Supreme Court; (ii) if a petition for writ of certiorari is filed, the date of denial of the petition for writ of certiorari, or the date the Judgment is affirmed pursuant to such petition; or (iii) if no appeal is filed, the expiration date of the time for filing or noticing any appeal of the Judgment.

SETTLEMENT CONSIDERATION

4. Settlement Consideration. Defendants will pay a maximum of Two Hundred and Eighty-Eight Thousand Four Hundred and Twenty Dollars ($288,420.00) in full satisfaction of all Settled Claims arising from the Action ("Settlement Consideration"), which includes all payments to Allegedly Aggrieved Employees and the LWDA, taxes (if any), Attorneys' Fees and Costs, Plaintiff's Service Award, and Settlement Administration Costs. The difference between the Settlement Consideration and the Attorneys' Fees and Costs, Service Award, and Settlement Administration Costs will be allocated toward the settlement of Plaintiff's claim for PAGA civil penalties ("PAGA Penalties Fund").

5. PAGA Penalties Fund. The PAGA Penalties Fund will be paid to Aggrieved Employees and the LWDA in full satisfaction of all claims for PAGA civil penalties under the California Labor Code, Wage Orders, regulations, and/or other provisions of law alleged to have been violated in the Action with respect to Allegedly Aggrieved Employees during the Relevant Period. Pursuant to PAGA, Seventy-Five Percent (75%) of the PAGA Penalties Fund will be paid to the LWDA, and the remaining Twenty-Five Percent (25%) will be paid to Allegedly Aggrieved Employees according to the following formula:

5(a) Defendants will calculate: (i) the total number of pay periods worked by each Allegedly Aggrieved Employee during the Relevant Period, and (ii) the total number of pay periods worked

by all Allegedly Aggrieved Employees during the Relevant Period. Defendants' employment records shall be determinative for purposes of calculating these figures. Defendants will provide these figures to the third party administrator on a confidential basis, and they will not be shared with Plaintiff or her counsel.

5(b) To determine each Allegedly Aggrieved Employee's payment from the PAGA Penalties Fund, the following formula will be used: Settlement Payment = 25% of PAGA Penalties Fund × [Pay Periods Worked by Individual Allegedly Aggrieved Employee During the Relevant Period ÷ Total Pay Periods Worked by All Allegedly Aggrieved Employees during the Relevant Period].

6. No Claims Required. Allegedly Aggrieved Employees shall not be required to make claims but shall simply be delivered a check for their share of the PAGA Penalties Fund when payments are delivered after Court approval of the Settlement along with a memorandum jointly prepared by Plaintiff's counsel and Defendants' counsel generally describing the purpose of the payment.

7. Attorneys' Fees and Costs. In full satisfaction of all claims Plaintiff may have for attorneys' fees, litigation costs, and expenses arising out of the Action, the Parties agree that Plaintiff may apply for up to one third (1/3) of the Settlement Consideration as reasonably attorneys' fees. Plaintiff's counsel may also apply to recover their actual litigation costs from the Settlement Consideration, which are currently estimated to be no more than Ten Thousand Dollars ($10,000.00). If the Court should award less than the above amounts, the difference will be added to the PAGA Penalties Fund.

8. Service Award and General Release by Plaintiff. For her service on behalf of the State of California and Aggrieved Employees, and in exchange for a general release of all claims Plaintiff may have against Defendants arising out of her employment, Defendants agree to pay Plaintiff the sum of Seven Thousand, Five Hundred Dollars ($7,500.00) ("Service Award"). Upon receipt of the Service Award, Plaintiff will be deemed to have fully and finally released Defendants, and each of their past, present and future agents, employees, owners, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, related companies/corporations and/or partnerships (defined as a company/corporation and/or partnership that is, directly or indirectly, under common control with Defendants or any of their parents and/or affiliates), assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, alter-egos, and affiliated organizations, and all of their respective past, present and future agents, employees, owners, officers, directors, partners, trustees, representatives, shareholders, stockholders, attorneys, parents, subsidiaries, related companies/corporations and/or partnerships, assigns, predecessors, successors, insurers, consultants, joint venturers, joint employers, alter-egos, and affiliated organizations (collectively, the "Released Parties"), from any and all claims, known and unknown, under federal, state and/or local law, statute, ordinance, regulation, common law, or other source of law, including but not limited to claims arising from or related to her employment with Defendants and her compensation while allegedly employed by Defendants ("Plaintiff's Released Claims"). Plaintiff's Released Claims include, but are not limited to, all claims asserted in, arising from or related in any way to the Action. Plaintiff's Released Claims include all claims for unpaid wages, including, but not limited to,

failure to pay minimum wages, straight time compensation, overtime compensation, double-time compensation, reporting time compensation, and interest; the calculation of the regular rate of pay; missed meal periods and rest periods, including missed meal and/or rest period premiums; reimbursement for all necessary business expenses; payment for all hours worked, including alleged off-the-clock work; allegedly deficient wage statements; allegedly unlawful deductions; failure to keep accurate records; unfair business practices; penalties, including, but not limited to, recordkeeping penalties, wage statement penalties, minimum-wage penalties, and waiting-time penalties; and attorneys' fees and costs. Plaintiff's Released Claims include all claims arising under the California Labor Code (including, but not limited to, sections 200, 201, 201.3, 201.5, 202, 203, 204, 205.5, 210, 216, 218, 218.5, 218.6, 221, 222, 222.5, 223, 224, 225, 225.5, 226, 226.7, 226.8, 227.3, 450, 510, 511, 512, 558, 1174, 1174.5, 1194, 1194.2, 1197, 1197.1, 1197.2, 1198, 2698 *et seq.,* 2800 and 2802); all claims arising under: the Wage Orders of the California Industrial Welfare Commission; the California Private Attorneys General Act of 2004 ("PAGA"); California Business and Professions Code section 17200, *et seq.*; the California Civil Code; 12 CCR § 11040; 8 CCR § 11060; California Code of Civil Procedure § 1021.5; the California common law of contract; the Fair Labor Standards Act, 29 U.S.C. § 201 *et seq.*; federal common law; and the Employee Retirement Income Security Act, 29 U.S.C. § 1001, *et seq.* Plaintiff's Released Claims also include all claims for lost wages and benefits, emotional distress, retaliation, punitive damages, and attorneys' fees and costs arising under federal, state, or local laws for discrimination, harassment, retaliation, and wrongful termination, such as, by way of example only, (as amended) 42 U.S.C. section 1981, Title VII of the Civil Rights Act of

1964, the Americans With Disabilities Act, the Age Discrimination in Employment Act, and the California Fair Employment and Housing Act; and the law of contract and tort. This release excludes the release of claims not permitted by law.

Plaintiff's Released Claims include all claims, whether known or unknown. Even if Plaintiff discovers facts in addition to or different from those that she now knows or believes to be true with respect to the subject matter of Plaintiff's Released Claims, those claims will remain released and forever barred. Thus, Plaintiff expressly waives and relinquishes the provisions, rights and benefits of section 1542 of the California Civil Code, which reads:

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

9. Settlement Administration Costs. The Parties will select _____ as the third-party settlement administrator ("Settlement Administrator"), subject to Court approval. All settlement administration costs, including the Settlement Administrator's fees, shall be paid from the Settlement Consideration. The Settlement Administrator will administer the Settlement and shall be responsible for issuing payments and appropriate tax forms to Allegedly Aggrieved Employees, the LWDA, Plaintiff, and Plaintiff's Counsel. Settlement administration costs are currently estimated to be no greater than Ten Thousand Dollars ($10,000.00). If less than this amount is spent on administration of the Settlement, any unused funds will become part of the PAGA Penalties Fund.

10. Court Approval of the Settlement. The Parties will present this Settlement

to the Court and will request that the Court issue a Judgment of Dismissal approving the Settlement and incorporating by reference the terms and conditions of the Settlement Agreement (the "Judgment"). The Court shall retain jurisdiction over the Settlement and the Parties for the duration of the settlement administration. The Parties pledge their good faith and fair dealing in supporting the approval of this Settlement by the Court.

11. Notice to LWDA. Pursuant to California Labor Code section 2699(l)(2), Plaintiff shall submit to the LWDA a copy of this Settlement Agreement and all supporting approval documents at the same time that Plaintiff seeks Court approval.

12. List of Allegedly Aggrieved Employees. Within twenty (20) calendar days after the Effective Date, Defendants will provide the Settlement Administrator a complete list of all Allegedly Aggrieved Employees ("Allegedly Aggrieved Employee List"). The Allegedly Aggrieved Employee List will include each Allegedly Aggrieved Employee's full name, most recent mailing address and telephone number, Social Security number, the pay period figures described in Paragraph 5(a) above, and any other relevant information needed to calculate settlement payments.

13. Delivery of the Settlement Consideration. Within thirty (30) calendar days after the Effective Date, Defendants will deliver the Settlement Consideration to the Settlement Administrator. Within seven (7) calendar days of the deliver of the Settlement Consideration, the Settlement Administrator will issue payments to: (a) the Allegedly Aggrieved Employees; (b) the Labor and Workforce Development Agency; (c) Plaintiff; (d) Plaintiff's Counsel; and (e) itself. The Settlement Administrator, and not Defendants, will issue the appropriate tax forms for all payments issued under this Settlement.

14. Settlement Payments to Allegedly Aggrieved Employees. The Settlement

Administrator will issue each Allegedly Aggrieved Employee one check for his or her share of the PAGA Penalties Fund along with an explanatory letter that will be mutually approved by the parties. Prior to mailing, the Settlement Administrator will perform a search based on the National Change of Address Database for information to update and correct for any known or identifiable address changes. Any checks returned as non-deliverable on or before the check cashing deadline will be sent promptly via regular First-Class U.S. Mail to the forwarding address affixed thereto. If no forwarding address is provided, the Settlement Administrator will promptly attempt to determine the correct address using a skip-trace, or other search using the name, address or Social Security number of the Aggrieved Employee involved and will then perform a single re-mailing. Checks will remain negotiable for 120 days. Those funds represented by un-cashed checks which remain outstanding 120 days after the mailing of the Settlement checks by the Settlement Administrator will be tendered to the unclaimed property fund of The State Controller's Office. All settlement payments to Aggrieved Employees will be treated as civil penalties, which shall be reported on IRS Forms 1099.

15. Settled Claims. As of the date of the Judgment, the LWDA and all Allegedly Aggrieved Employees fully and finally release and discharge the Released Parties from any and all LWDA/Allegedly Aggrieved Employee Released Claims. The LWDA/Allegedly Aggrieved Employee Released Claims include, but are not limited to, all claims, debts, liabilities, demands, actions, or causes of action for civil penalties arising from or related to the facts and claims alleged in the Action, or that could have been raised in the Action based on the facts and claims alleged, including all claims for civil penalties based upon or arising out

of Defendants' alleged failure to pay all wages due, pay for all hours worked, pay overtime compensation, provide meal breaks, authorize and permit rest breaks, pay meal and/or rest period premiums, failure to provide accurate itemized wage statements, and failure to pay wages due upon separation of employment. The LWDA/Allegedly Aggrieved Employee Released Claims include, without limitation, those under Labor Code sections 2698, *et. seq.* during the Relevant Period, arising out of or relating to alleged violations of the California Labor Code Sections 201, 202, 203, 204, 206, 226, 226.2, 226.3, 226.7, 510, 512, 558, 558.1, 1174, 1174.5, 1175, 1182, 1182.12, 1193.6, 1194, 1194.2, 1197, 1197.1, and 1198, as well as the applicable California Industrial Welfare Commission Wage Order(s), during the period covered by the settlement. The Parties agree and acknowledge that, to the maximum extent permitted by law, the Judgment of Dismissal entered pursuant to this Settlement will bind all those who would be bound by a judgment if the action had been brought by the LWDA, including Plaintiff, the LWDA, and the Allegedly Aggrieved Employees, with respect to the recovery of civil penalties under the California Private Attorneys General Act, California Labor Code sections 2698, *et. seq.*, against the Released Parties. It is expressly understood and agreed that this Settlement includes a full release of the PAGA claims arising from the matters alleged in the letters Plaintiff sent to the LWDA on January 28, 2020 and January 29, 2020. This release excludes the release of claims not permitted by law.

16. No Comments to Press or Media. Plaintiff and her counsel agree that they shall not publicize the terms or existence of this Settlement on their websites, in advertising/marketing materials, or on social media, other than filing documents with the Court. The Parties and their counsel agree that they shall not issue any press releases or discuss the facts, amount, or

terms of this Settlement with any member of the press or media. Nothing in this provision shall prevent Defendants from making any required disclosures.

17. No Credit Toward Benefit Plans. Payments to Allegedly Aggrieved Employees as referenced herein will not be utilized to calculate any additional benefits under any benefit plans to which any Allegedly Aggrieved Employee may be eligible, including, but not limited to profit-sharing plans, bonus plans, 401(k) plans, stock purchase plans, vacation plans, sick leave plans, PTO plans, and any other benefit plan. Rather, it is the Parties' intention that this Settlement Agreement will not affect any rights, contributions, or amounts to which any Allegedly Aggrieved Employee may be entitled under any benefit plans.

18. No Prior Assignments. The Parties and their counsel represent, covenant, and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity any portion of any liability, claim, demand, action, cause of action or right herein released and discharged.

19. Nullification of Settlement Agreement. In the event that: (i) the Court does not approve the Settlement as provided herein; or (ii) the Settlement does not become final for any other reason, then this Settlement Agreement, and any documents generated to bring it into effect, will be null and void, and the Parties will be returned to their original respective positions.

20. Judgment and Continued Jurisdiction. After entry of the Judgment, the Court will have continuing jurisdiction for purposes of addressing: (i) settlement administration matters, and (ii) such post-Judgment matters as may be appropriate under court rules or as set forth in this Settlement.

21. Entire Agreement. This Settlement Agreement constitutes the entirety of the Parties' settlement terms. No other prior or contemporaneous written

or oral agreements may be deemed binding on the Parties.

22. Amendment or Modification. This Settlement Agreement may be amended or modified only by a written instrument, signed by either the Parties or their successors-in-interest or counsel for all Parties.

23. Authorization to Enter into Settlement Agreement. Counsel for all Parties warrant and represent they are expressly authorized by the Parties whom they represent to negotiate this Settlement Agreement and to take all appropriate action required or permitted to be taken by such Parties pursuant to this Settlement Agreement to effectuate its terms and to execute any other documents required to effectuate the terms of this Settlement Agreement. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement. If the Parties are unable to reach agreement on the form or content of any document needed to implement the Settlement, or on any supplemental provisions that may become necessary to effectuate the terms of this Settlement, the Parties may seek the assistance of the Court to resolve such disagreement.

24. Binding on Successors and Assigns. This Settlement Agreement will be binding upon, and inure to the benefit of, the successors or assigns of the Parties hereto, as previously defined.

25. California Law Governs. All terms of this Settlement Agreement will be governed by and interpreted according to the laws of the State of California.

26. Execution and Counterparts. This Settlement Agreement is subject only to the execution of all Parties. However, the Settlement Agreement may be executed in one or more counterparts. All executed counterparts and each of them, including electronic signatures (e.g., Docusign), facsimiles, and scanned copies of the signature pages, will be deemed to be one and the

same instrument.

27. Acknowledgement that the Settlement is Fair and Reasonable. The Parties believe this Settlement Agreement is a fair, adequate, and reasonable settlement of the Action and have arrived at this Settlement after arm's-length negotiations by experienced counsel. The Parties further acknowledge that they are each represented by competent counsel and that they have had an opportunity to consult with their counsel regarding the fairness and reasonableness of this Settlement.

28. Waiver of Certain Appeals/Appellate Rights. The Parties agree to waive appeals; except, however, that either Party may appeal any court order that approves the Settlement but materially alters the Settlement's terms, so long as the appealing Party provides written notice to counsel for the opposing Party of their intent to appeal within five (5) business days after entry of the Judgment ("Appellate Rights").

29. Invalidity of Any Provision. Before declaring any provision of this Settlement Agreement invalid, the Court will first attempt to construe the provision as valid to the fullest extent possible consistent with applicable precedents so as to define all provisions of this Settlement Agreement valid and enforceable. If any provision of this Settlement Agreement or the application thereof is held invalid, the invalidity shall not affect other provisions or application of this Settlement Agreement which can be given effect without the invalid provisions or application and, to this end, the provisions of this Settlement Agreement are severable. Notwithstanding the foregoing, no portion of any release contained herein may be deemed severed or deleted from this Settlement Agreement, except upon waiver in writing by the applicable Party.

30. Captions. The captions and section numbers in this Settlement Agreement are inserted for the reader's convenience, and in no way define, limit,

construe or describe the scope or intent of the provisions of this Settlement Agreement.

31. Waiver. No waiver of any condition or covenant contained in this Settlement Agreement or failure to exercise a right or remedy by any of the Parties hereto will be considered to imply or constitute a further waiver by such party of the same or any other condition, covenant, right or remedy.

32. Enforcement Action. In the event that one or more of the Parties institutes any legal action or other proceeding against any other Party or Parties to enforce the provisions of this Settlement or to declare rights and/or obligations under this Settlement, the successful Party or Parties will be entitled to recover from the unsuccessful Party or Parties reasonable attorneys' fees and costs in connection with any enforcement actions.

33. Mutual Preparation. The Parties have had a full opportunity to negotiate the terms and conditions of this Settlement Agreement. Accordingly, this Settlement Agreement will not be construed more strictly against one party merely by virtue of the fact that it may have been prepared by counsel for one of the Parties, it being recognized that, because of the arm's-length negotiations between the Parties, all Parties have contributed to the preparation of this Settlement Agreement.

34. Representation By Counsel. The Parties acknowledge that they have been represented by counsel throughout all negotiations that preceded the execution of this Settlement Agreement, and that this Settlement Agreement has been executed with the consent and advice of counsel, and reviewed in full.

35. Cooperation and Execution of Necessary Documents. All Parties will cooperate in good faith and execute all documents to the extent reasonably necessary to effectuate the terms of this Settlement

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Agreement.

36. Binding Agreement. The Parties warrant that they understand and have full authority to enter into this Settlement, and further intend that this Settlement Agreement will be fully enforceable and binding on all parties, and agree that it will be admissible and subject to disclosure in any proceeding to enforce its terms, notwithstanding any mediation confidentiality provisions that otherwise might apply under federal or state law.

37. Denial of Liability. The Parties expressly recognize that the making of this agreement does not in any way constitute an admission or concession of wrongdoing on the part of Defendants. Nothing in this Settlement, nor any action taken in implementation thereof, nor any statements, discussions or communications, nor any materials prepared, exchanged, issued or used during the pendency of the Action, is intended by the Parties to, nor will any of the foregoing constitute, be introduced, be used or be admissible in any way in any other judicial, arbitral, administrative, investigative or other forum or proceeding, as evidence of any violation of any federal, state, or local law, statute, ordinance, regulation, rule or executive order, or any obligation or duty at law or in equity. Notwithstanding the foregoing, this agreement may be used in any proceeding in the Court that has as its purpose the interpretation, implementation, or enforcement of the Settlement or any orders or judgments of the Court entered into in connection therewith.

READ CAREFULLY BEFORE SIGNING

Plaintiff

Dated: 03/23/21 | 3:27 PDT

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Terri Gibson

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Swift Transportation Company of Arizona, LLC and Swift Transportation Services, LLC

Dated: 3-24-21

Name of Authorized Signatory