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Attorneys for Plaintiff RAMON AGUILA
individually and on behalf of all others similarly situated.

SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA

RAMON AGUILA, individually and on behalf of all others similarly situated,

Plaintiff,

v.

BECTON AND DICKINSON; APIDEL TECHNOLOGIES, LLC; and DOES 1 - 50, inclusive,

Defendant.

Case No.: 22CV404498
Consolidated with:

Judge: Hon. Theodore C. Zayner
Department: 19

DECLARATION OF JAMES HAWKINS IN SUPPORT OF MOTION FOR PRELIMINARY APPROVAL OF CLASS ACTION SETTLEMENT; MEMORANDUM OF POINTS AND AUTHORITIES

Date: January 22, 2025
Time: 1:30 p.m.

DECLARATION OF JAMES HAWKINS

I, James Hawkins, declare as follows:

1. I am an individual over the age of 18. I am a partner at the law firm of James Hawkins, APLC. I am one of the attorneys of record for Plaintiff RAMON AGUILA (hereinafter referred to as "Plaintiff" or "Class Representative"), who commenced this Class and PAGA action on behalf of the Class Members and Aggrieved Employees. I submit this declaration in support of Plaintiff's Motion for Preliminary Approval of Class Action Settlement, which Plaintiff filed concurrently herewith, along with the supporting Memorandum of Points and Authorities. I have personal knowledge of the facts set forth below, and if called to testify regarding them, I could and would do so competently.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the executed Class Action and PAGA Settlement Agreement which the Parties ask the Court to approve. Attached to the Settlement Agreement as **Exhibit A** is a true and correct copy of the Notice of Proposed Settlement of Class Action and Certification of Settlement Class along with the opt out form and objection form. ("Notice" or "Class Notice").

3. On August 8, 2022, Plaintiff submitted a letter to the California Labor Workforce Development Agency (the "LWDA") for civil penalties under the Private Attorney General Act of 2004 (the "PAGA").

4. On August 8, 2022, Plaintiff filed the Class Action against Defendants in a case entitled *Ramon Aguila v. Becton and Dickinson, et al.*, Santa Clara Superior Court Case No. 22CV401816 (the "Class Action").

5. On October 13, 2022, Plaintiff Sierra filed his PAGA Action against Defendants in a case entitled *Ramon Aguila v. Becton and Dickinson, et al.*, Santa Clara Superior Court Case No. 22CV404498 (the "PAGA Action").

6. The Class Action and PAGA Action both allege that Defendant violated various wage and-hour laws, including: (1) failure to pay wages including overtime and minimum wages as required by Labor Code §§ 510 and 1194; (2) failure to provide meal periods as required by Labor Code §§ 226.7, 512, and IWC Wage orders; (3) failure to provide rest periods as required by Labor

Code §§ 226.7, 512; (4) failure to pay timely wages required by Labor Code § 203; (5) failure to provide accurate wage statements required by Labor Code §§ 226, 226.3, 558.l; (6) failure to reimburse necessary business expenses; (7) failure to pay reporting time pay; and (8) violation of Business & Professions Code § 17200, et seq.

7. In preparation for the mediation, Defendant provided Class Counsel with first- and last-time punch dates for all employees, a random sample of time and payroll records consisting of over 65,000 lines of data for approximately 30% of the Class Members and relevant policies and job descriptions for Class Members during the Class Period.

8. On March 8, 2024, the Parties participated in mediation with Lou Marlin, Esq., a respected mediator of complex wage-and-hour actions, and with the assistance of his evaluations, the Parties reached settlement.

9. Defendants deny that they've engaged in any misconduct in connection with the wage-and-hour practices associated with the Class Members (inclusive of the Aggrieved Employees). Defendants further deny that Defendants have any liability of any kind associated with the claims alleged in the Actions. Defendants contend that Defendants have complied with both federal and state wage-and-hour laws, and all other laws regulating its relationship with the Class Members and the Aggrieved Employees, including the Named Plaintiff.

10. Class Counsel has investigated the facts relating to the Actions. Settlement discussions were conducted at arm's length during a full-day mediation with a neutral third-party mediator Lou Marlin, Esq., and numerous subsequent settlement discussions, which ultimately led to Settlement, of which is placed before this Court for approval.

11. Settlement is the result of an informed and detailed analysis of Defendants' potential liability and exposure in relation to the costs and risks associated with continued litigation. Through informal efforts, Plaintiff obtained over 65 thousand lines of date related to time and payroll records for over 90% of Class Members, numerous policy documents relating to the claims and job descriptions applicable to the Class during the Class Period. Based on the documents and data produced, as well as Class Counsel's own independent investigation and evaluation, Class Counsel believes that the Settlement documented by this Settlement Agreement is fair, reasonable, and

adequate, and in the best interest of the Class in light of all known facts and circumstances, including the risk of significant delay and defenses asserted to the merits of the Actions. While Defendants specifically deny any liability in the Actions, Defendants have agreed to enter into this Settlement to avoid the costs associated with defending the Actions.

12. In summary, Plaintiff's Counsel performed a thorough investigation into the claims at issue, which included: (1) determining Plaintiff's suitability as private attorneys general and class representative through interviews, background investigations, and analyses of employment files and related records; (2) evaluating all of Plaintiff's potential representative claims; (3) researching similar wage and hour class actions as to the claims brought, the nature of the positions, and the type of employer; (4) analyzing employees' time and wage records; (5) reviewing Defendants' employment policies and practices; (6) researching settlements in similar cases and the prior settlement in this case; (7) evaluating Plaintiff's claims and estimating Defendant's liability for purposes of settlement; (8) drafting the mediation brief; and (9) participating in the mediation.

13. By engaging in such a thorough investigation and evaluation of Plaintiff's claims, Plaintiff's Counsel can opine that the Settlement, for the consideration and on the terms set forth in the Settlement Agreement, is fair, reasonable, an adequate, and is in the best interests of Class Members in light of all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, and various defenses asserted by Defendants.

14. As a result of the mediation, the Parties agreed to settle this matter for a Gross Settlement Amount ("GSA") of $275,000.00. Plaintiff's counsel balanced the terms of the proposed Settlement against the risk of litigation and probable outcome at the class certification stage, and if any Class were certified, at trial. Based on their own respective independent investigations and evaluations, and after taking into account the sharply disputed factual and legal issues involved in this matter, the risks attending further prosecution of the case, and the monetary benefits received under the Settlement despite the questionable nature of the claims, Plaintiff's counsel is of the opinion that Settlement for the consideration and on the terms set forth in the Settlement Agreement is fair, reasonable and adequate and is in the best interests of Plaintiff and the Class. Counsel for the Parties investigated the applicable law as applied to the facts discovered regarding the claims of

Plaintiff, Defendants' defenses thereto and the damages claimed by Plaintiff on behalf of the Settlement Class.

15. The GSA includes, subject to Court approval, (1) attorneys' fees in the amount of $91,666.66 and reimbursement of reasonable litigation costs and expenses in the amount of up to $20,000.00 to Class Counsel ("Attorneys' Fees and Costs"); (2) Named Plaintiff Class Representative Service Payment in the amount of $7,500.00 to the Named Plaintiff ("Class Representative Service Payment"); (3) fees and expenses of administration of the Settlement to the Settlement Administrator in an amount of $5,990.00 ("Administrator Costs"); (4) $30,000.00 to PAGA with twenty-five percent (25%) share of the PAGA Penalties to be a part of the Net Settlement Amount that will be distributed to Aggrieved Employees in the amount of $7,500.00; and (5) the seventy-five percent (75%) share of PAGA Penalties ("LWDA Payment") in the amount of $22,500.00 to the California Labor and Workforce Development Agency ("LWDA"). **The Entire Net Settlement Amount will be paid to all Class Members who do not opt out of the Settlement Class, and without the need to submit claims for payment.** After deductions, the Net Settlement Amount ("NSA") is estimated to be approximately **$119,843.34.** The Class Members are to be paid based from the NSA on a pro rata basis based upon the weeks each class member worked in comparison to the total work weeks worked by all Class Members.

16. The Settlement was negotiated and based upon the representation at the time of mediation that there were no more than 108,033 non-exempt workweeks worked by the Class Members during the period Class Period. If that number is incorrect by more than 10% (i.e., by more than 1,041.1 workweeks), then Defendants shall increase their contribution to the Gross Settlement Amount on a proportional basis in excess of 10%. For example, if the number is 11% higher, the Gross Settlement Amount will be increased by 1% (i.e. by $2,750, with Apidel and BD each contributing 50% ($1,375). It is estimated there are approximately 3,808 Pay Periods worked by approximately 71 Aggrieved Employees during the PAGA Period of August 8, 2021, through the earlier of June 13, 2024 or the date the Court grants preliminary approval of this Settlement.

17. Fairness of the Settlement is demonstrated by the uncertainty and risks to Plaintiff involved both in not prevailing on one or more of the causes of action or theories alleged in the

operative Complaints and in non-certification, and if successful, Defendant disputes the ability of Plaintiff to certify a class in this case. Defendants also argued it maintained lawful written policies that were provided to the class members and enforced those policies. Yet, despite the defenses proffered by Defendants, the proposed Settlement commits Defendants to pay each Class Member a portion of the NSA. The amount to be paid to the Classes is fair, adequate and reasonable given the significant risk to Plaintiff and the Class in continuing with the litigation and not prevailing on their claims at class certification or at trial or not being paid anything even if trial was successful.

18. A thirty percent (30%) sampling of Class Member's time and pay records were produced and analyzed along with other relevant data points, to come up with a damage model to determine Defendants' exposure for the class.

19. Although Plaintiff's Counsel believes the class claims are strong, Plaintiff's Counsel also recognize that if the litigation had continued, they may well have encountered significant legal and factual hurdles that could have prevented the Class from obtaining any recovery.

20. To be sure, a number of cases have found wage and hours actions to be especially amenable to class resolution. However, some courts have gone the other way, finding that some of the very claims at issue here-especially meal period and rest period violations-were not suitable for class adjudication because they raised too many individualized issues. *See Duran v. US. Bank National Association*, 59 Cal. 4th 1 , 31 (2014) (reversing a verdict from a class trial); *Ali v. US.A. Cab Ltd.*, 1 76 Cal. App. 4th 1333, 1341 (2009) (affirming denial of certification because employees' declarations attesting to having taken meal and rest periods demonstrated that individualized inquiries were required to show harm); *Campbell v. Best Buy Stores, L.P.* , 2013 U.S. Dist. LEXIS 137792, at *30- 41 (C.D. Cal. Sept. 20, 2013) (following *Brinker* and denying certification of proposed off-the-clock and rest and meal break classes due to lack of uniform policy); *.Jimenez v. Allstate Ins. Co.*, 2012 U.S. Dist. LEXIS 65328 (C.D. Cal. Apr. 18, 2012) (denying motion to certify meal and rest period classes based on employer's practice of understaffing and overworking employees); *Gonzalez v. Officemax NA.*, 2012 U.S. Dist. LEXIS 163853 (C.D. Cal. Nov. 5, 2012) (same); *Brown v. Fed. Express Corp.*, 249 F.R.D.580, 587-88 (C.D. Cal. 2008) (denying certification of driver meal and rest period claims based on the predominance of individual issues);

Kenny v. Supercuts, Inc., 252 F.R.D. 64 I, 645 (N.D. Cal. 2008) (denying certification on meal periods claim); *Blackwell v. Skywest Airlines, Inc.* , 245 F.R.D. 453, 467- 68 (S.D. Cal. 2007) (declining to certify class action because individual issues predominated when different employee stations provided different practices with respect to meal periods).

21. Some courts have denied certification even when an employer's policies are unlawful on their face. For instance, in *Ordonez v. Radio Shack, Inc.*, 20 1 3 U.S. Dist. LEXIS 7868, *35-4 1 (C.D. Cal. Jan. 17, 201 3), the court denied certification even though the plaintiff submitted evidence of a facially unlawful policy regarding rest breaks. The *Ordonez* court concluded that the predominance and superiority elements were not met based on the employer's presentation of anecdotal evidence of lawful compliance notwithstanding the unlawful policy. Id. at *38-40. And it should be underscored that that claims which are amendable to certification can be disposed of by motion for summary judgment. *See Loudv. Eden Med. Ctr.*, 2013 U.S. Dist. LEXIS 122873, **36-53 (N.D. Cal. Aug. 28, 2013) (granting summary judgment on wage statement claim because plaintiff could not show injury due to defects and that incorrect wage information is not willful).

22. As the above examples illustrate, the prospect of certifying a wage and hour action is always uncertain, and the risk of being denied class certification militates in favor of settlement. A denial of class certification effectively forecloses continued litigation, as neither the individual nor his or her attorney will have any incentive to proceed with an individual case when such small claims are at stake. *See In re Baycol Cases I & II*, 5 1 Cal. 4th 75 1 , 758 (2011) (explaining that a dismissal of class claims is effectively the "death knell" of the case, despite survival of individual claims). In other words, for cases where individual damages are relatively small, denial of class certification results in a near-complete loss for Plaintiff as well as no recovery for the employees, who are shut out of the action. Thus, if the putative Class had not been certified, the value of Plaintiff’s case would have been reduced to a fraction of the value of this Settlement; indeed, Defendants would likely have offered no money to settle the class-wide claims if certification had been denied.

23. Finally, early resolution saves time and money that would otherwise go to litigation. The Parties' resources, as well as the Court's, will be further taxed by continued litigation. And if

this action had settled following additional litigation, the settlement amount would likely have taken into account the additional costs incurred, and there may have been less available for Class Members. Cost savings is one reason why California policy strongly favors early settlement. *See Nemy v. Regents of University of California*, 3 Cal. 4th 273, 277 (1992) (explaining the high value placed on settlements and observing that "[s]ettlement is perhaps most efficient the earlier the settlement comes in the litigation continuum."). This concern also supports settlement.

24. Further, beyond the risk of an adverse ruling on the merits or certification, Class Counsel considered the fact that continued litigation would likely take years and would be extremely expensive given the breadth and complexity of the claims. In this case, post-trial and appellate proceedings are likely to occur, which will surely drag the case far into the future even with a positive trial result. When facing a distant and unsure resolution of the allegations in this action, the swift, sure and substantial Settlement is all the more reasonable. Avoiding such costly litigation in favor of more immediate benefits to the Class was a consideration favoring settlement. Given these realities, it is highly likely that the future expense of this litigation, and its likely duration if the settlement is not approved, would be significant and weigh heavily in favor of approval of this settlement.

25. The GSA is well within the acceptable range of reasonableness for the claims of the Settlement Class Members. Based upon detailed data obtained through both formal and informal discovery and information exchanges, there are approximately 113 class members who worked approximately 10,141 workweeks at the time of mediation.

26. Plaintiff contends that his strongest claims are for late or interrupted meal period violations, and off the clock work. The average weighted hourly rate was $22.71. The average weighted OT rate was approximately $33.16. The average full time employee equivalent was approximately 34 employees. There was an average work shift count of approximately 5 shifts per week.

27. Here, the off the clock claims for pre-shift activities for part of the Class Period was valued at approximately $140,130 assuming 5 minutes off the clock per shift. This number could decrease depending on whether class members arrived early to shifts to organize for the day or not.

If the number of individuals did not arrive early to conduct pre-shift work activities, then the alleged damages would decrease greatly. The meal period claim analysis confirmed approximately 82% compliance rate and thus the estimated damages were valued at approximately $167,129, and not accounting for both verbal and written waivers of first and or second meal periods and paid meal period premiums. Further, this number could be reduced if it was determined an individual was provided a meal, but chose through their volition work through meal periods. Assuming a similar violation count as the meal periods, the rest period claim was valued at $167,129. The reimbursement claims provided little to no value and the reimbursement claims appeared to be limited in scope, and not a class-wide issue affecting the majority of employees. Assuming a reasonable $25 reimbursement value for personal phone usage, the claim would be approximately $74,214. Further, reimbursement forms were provided to employees for any claims of reimbursement. The waiting time penalty is valued at $354,276.00 for approximately 65 former terminated employees. The LC 226 claim was valued at approximately $204,750 for approximately 71 employees in the wage statement LC 226 period. Lastly, the PAGA penalties for the above-described violations, were valued at approximately $190,400 assuming one violation per pay period at approximately 3,808 pay periods for approximately 71 Aggrieved Employees at a rate of $50.00 per pay period. Of course, this number could increase and or decrease drastically, depending on the ability of Plaintiff to prove its practices were intentional or in bad faith. Evidence uncovered during the investigation seems to demonstrate such a showing may be not be possible as to each and every alleged violation given the facts that were uncovered. Of course, on the high end, the PAGA penalties could exceed or reach close to 10 million for two violations if stacking were allowed, and if an intentional violation could be proven for each and very pay period.

28. Of course, these penalties discussed above could be greatly reduced given the various good faith defenses available to Defendants. For instance, Defendants could argue that given its policies in place, given its payment of overtime and double time, and policies in place at the time, there is no bad acts that can be proven to subject Defendants to penalties. Defendants could also argue that if it could defeat Plaintiff’s unpaid wage claims for instance, and, because the waiting time penalty claims were derivative of the unpaid wages and meal period claims, Plaintiff’s Labor

Code § 203 would fail.

29. Defendants raised a host of strong defenses both as to class certification and on the merits. For instance, Defendants argued that it maintained a policy which required the Class Members to keep accurate records for the beginning and end of the workday, and that any "off-the-clock" claims would require exactly the type of individualized assessments that preclude class certification. As to the wage claim, Defendants claimed that Plaintiff and the Class would be unable to show the requisite "injury" to impose liability, and the wilfulness prong for any penalties under 203 or ill will or bad faith under PAGA such that substantial penalties would not be awarded.

30. In sum, when factoring in the defenses and risks of ongoing litigation, Plaintiff estimates the risk-adjusted class recovery based on 50% risks for continued litigation and not recovering on one or more of the alleged claims as follows:

- Unpaid Wage Claims $70,065
- Waiting Time Penalty Claims $177,138
- Unreimbursed Expenses $74,214
- Meal and Rest Break Claims $ 167,129
- Wage Statement Claims $102,375
- PAGA $95,200
- **Total Risk Adjusted Penalties and Damages $ 686,121**

31. As a result, the GSA of $275,000.00 represents a reasonable recovery and accounts for approximately 21% to 43%of the alleged ranges of damages including unadjusted risks exposure of $1,298,028 of the overall potential value including penalties and damages. This recovery could easily be much higher if at trial PAGA penalties were reduced or damages for certain pay periods or workweeks could not be proven for certain individuals. The proposed GSA is within the "ballpark of reasonableness" and should be approved. Counsel for Plaintiffs believe that this is a fair and reasonable Settlement in light of the complexities of the case, the state of the law and uncertainties of class certification and litigation, the policies and practices Defendants have had in place or implemented during the purported liability period, and the benefit to be recovered for the Class. Given the risks inherent in litigation, this settlement is fair, adequate, and reasonable and is in the best interests of the Settlement Class, and should be preliminarily approved.

32. Based on the estimated Net Settlement Amount of $119,843.34, on average each Settlement Class Member with approximately **$1,060.56** per Class Member. The highest amount a Settlement Class Member will receive is approximately **$3,605.10** based upon $11.82 per workweek after deductions, multiplied by approximately 305 maximum workweeks in the the Class Period. The lowest payment is estimated to be approximately **$11.82** for someone who worked only one workweek. To the extent any amount for Attorneys' Fees, Costs, Claims Administration Costs or Service Payment are not awarded, the difference in those amounts will be added to the NSA. This is a guaranteed amount of money paid to Settlement Class Members now, rather than the continued risk of further litigation and receiving no money sometime in the far future and after trial and appeals.

33. The Aggrieved Employees who worked during the PAGA period will be paid an Individual PAGA Payment based upon a pro rata share of the number of pay periods each PAGA member worked compared to the total pay periods worked by all Aggrieved Employees during the PAGA period of approximately 3,808 pay periods. As a result, there are approximately 71 Aggrieved Employees who will each receive on average approximately $105.63 per Aggrieved Employee. The lowest value is approximately $1.97 for one pay period worked.

34. The Class Representative has provided extensive supporting documents and assisted Class Counsel in developing information necessary to litigate and settle this case. Plaintiff also conducted record review and consultation with counsel in preparation for mediation, and to assist in evaluating and proving the claims. The settlement provides for a Service Payment to be paid to the Class Representative in the amount of $7,500.00, subject to Court approval. The purpose is to compensate the Class Representative an additional incentive payment, taking into consideration the risks, time, effort and expenses incurred in coming forward to provide invaluable information and negotiate and litigate this matter on behalf of all Settlement Class Members who otherwise, would probably not file their own individual claims to recover what may be relatively low damages. Further, the Payment of $7,500.00 as a Service Payment to the Class Representative is a very fair and justified as part of the Settlement based on the risks Plaintiff has taken and benefits conferred upon the Settlement Class.

35. Class certification, as requested by the Parties for the purposes of the settlement only, should be granted because Plaintiff allege that the proposed Settlement Class Members' claims all stem from the same alleged conduct, i.e., that Defendant violated California law because they: (1) failure to pay wages including overtime and minimum wages as required by Labor Code §§ 510 and 1194; (2) failure to provide meal periods as required by Labor Code §§ 226.7, 512, and IWC Wage orders; (3) failure to provide rest periods as required by Labor Code §§ 226.7, 512; (4) failure to pay timely wages required by Labor Code § 203; (5) failure to provide accurate wage statements required by Labor Code §§ 226, 226.3, 558.l; (6) failure to reimburse necessary business expenses; (7) failure to pay reporting time pay; and (8) violation of Business & Professions Code § 17200, et seq. In addition to compensatory damages, Plaintiff and the Settlement Class seek attorneys' fees, costs, and interest. Under these specific circumstances, the commonality requirement for class certification is satisfied. The typicality requirement for certification is also met as it is alleged that the Class Representative and the proposed Settlement Class were subjected to similar violations based upon similar conduct, policies and practices of the Defendants regardless of their duties.

36. The adequacy requirement for certification is also met. The Class Representative and Class Counsel have prosecuted this action vigorously on behalf of the Settlement Class. The Class Representative will receive a reasonable award for the time and effort spent assisting Class counsel with factual issues surrounding the case. Other than this specific payment to the Class Representative, all of the Settlement Class Members will receive a proportionate share of the NSA, as detailed above provided they do not exclude themselves. Further, all Aggrieved Employees during the PAGA Period will receive their pro rata share of PAGA Penalties. As a result, there is no conflict of interest between the Class Representative and the Settlement Class Members. Further, the NSA will be fairly distributed among Participating Class Members, and no "settlement allocation" questions will be raised.

37. Common questions of law and fact predominate over individual questions and class-wide treatment of this dispute is superior to individual litigation. Plaintiff alleges that the proposed Settlement Classes in this case are sufficiently cohesive, since all Settlement Class Members share a common nucleus of facts and potential legal remedies, and since all of the Settlement Class

Members and the Class Representative seeks compensation for unpaid wages and other civil and statutory penalties from Defendants for the allegations described in the Complaints. Common questions about compensation or lack thereof for work performed by Settlement Class Members and the Settlement Class Members' potential legal remedies are identical. The alternative method of resolution is individual claims for relatively small amounts of damages, but individual cases would be uneconomical for potential plaintiffs because the cost of litigation dwarfs potential recovery. Therefore, a class action is the preferred method of resolution.

38. The class notice plan here calls for the Settlement APEX Class Action Settlement Administrators ("APEX") to mail a Notice of Class Action settlement to all known and reasonably ascertainable Settlement Class Members based on Defendants' records. Further, the Settlement Administrator will conduct a skip-trace and use all reasonable efforts to locate Settlement Class Members and will re-mail all returned envelopes with forwarding addresses. The notice is consistent with the class certification notices approved by numerous state and federal courts, and is the best notice practicable under circumstances of this case. The proposed Settlement Class Members are ascertainable because all of the Settlement Class Members have worked for Defendants during the Class Period and can be identified through Defendants' records.

39. APEX is experienced in administering class action settlements and has provided a flat-fee proposal to administer this settlement for $5,990.00.

40. The Notice also fulfills the neutrality requirement. It summarizes the proceedings to date and the terms and conditions of the Settlement in an informative and coherent manner, and is accurate, objective, and understandable to Settlement Class Members, as is required under prevailing precedent. The Notice clearly states the Settlement does not constitute an admission of liability by Defendants and recognizes the Court has not ruled on the merits. It also states the final settlement approval decision has yet to be made. The Notice also clearly instructs the Settlement Class Members on how to object or exclude themselves from the Settlement. Therefore, Settlement Class Members will have the option to participate or exclude themselves simply by mailing a request to exclude themselves. The Settlement Class consists of non-exempt employees who speak English. Thus, the Notice of Class Action is drafted in a manner that is likely to be readily understood by the

Settlement Class. Accordingly, the Notice complies with the standards of fairness, completeness and neutrality required of a Notice of Class Action Settlement. The Notice therefore is neutral, objective and understandable.

41. I have a great deal of experience in wage and hour class action litigation. I have obtained certification of several classes, I have been approved as class counsel in many other wage/hour class actions, and I am currently litigating numerous others. Although not an all-inclusive list, over the years I have prosecuted the following class action matters as lead and/or co-lead counsel, all of which implicated similar law and facts to those associated with this action:

a. *Aguilar v. 7-Eleven, Inc*., et. al., Orange County Superior Court- Case No.: 30-2009-00268714-CU-OE-CXC. Certified Wage and Hour Class action seeking premium wages for meal period and rest periods and resultant penalties. Class Notice pending.

b. *Carey, et. al. v. Arthur J. Gallagher*, et. al., USDC, SOUTHERN DISTRICT- Case No.: 09-cv-0168. Wage and Hour Class action seeking past wages of overtime for mis-classification of insurance claims adjusters employed by Gallagher Bassett, a third party administrator (TPA) in the State of California. Certification granted. Plaintiffs' counsel co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

c. *Dao v. 3M Company*, et al. USDC, CENTRAL DISTRICT, Case No. CV-08-04554. Wage and Hour Class Action case seeking past wages for "off the clock", overtime and meal and rest break violations for production workers in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

d. *Ortiz v. Kmart*, USDC, CENTRAL DISTRICT, Case No. SACV 06-638 ODW. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' counsel appointed co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

e. *Morgan v. Aramark Campus*, LLC, USDC, CENTRAL DISTRICT, Case No.

SACV08-00412. Wage and Hour Class Action case seeking past wages for meal and rest period violations for retail employees in the State of California. Plaintiffs' Counsel appointed as Lead Counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

f. *West v Iron Mountain Information Management, Inc, et. al*.; Los Angeles County Superior Court, Case No. BC393709. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for driver employees in the State of California. Settlement for "binding arbitration." Arbitration Award for Plaintiff Class. Arbitration Award confirmed. Plaintiffs' counsel, lead trial counsel and class counsel.

g. *Gonzalez v. Superior Industries Inter, Inc., et al*., Los Angeles County Superior Court, Case No. BC 357912. Wage and Hour Class Action seeking past wages for overtime, meal and rest breaks violations for production employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

h. *Acosta v. Fleetwood Travel Trailers of California, Inc*., et al., Riverside County Superior Court, Case No. RIC 440630. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production employees in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

i. *Walker v. Sharkeez, et al*., Orange County Superior Court, Case No. 05CC00293. Wage and Hour Class Action seeking past wages for unlawful deductions, meal and rest break violations for restaurant employees in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted and funds fully distributed.

j. *Padron v. Universal Protection Service, et al*, Orange County Superior Court, Case No. 05CC00013. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for security officers in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

k. *Martinez v. Securitas Security Services USA*, et al., Santa Clara Superior Court, Case No. 105-CV047499, et al. J.C.C.P. No. 4460. Wage and Hour Class Action seeking past wages for meal and rest break violations for security officers employed by defendant in the State of California. Plaintiffs' counsel and co-counsel. Case settled, Final Approval granted and funds fully distributed.

l. *Velasquez-Lopez v. Hotel Cleaning Services, Inc*. et al., Riverside Superior Court, Case No. RIC 420909. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for housekeepers employed by defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

m. *Ruiz, et al. v. Unisourse Worldwide, Inc., et al*., USDC, CENTRAL DISTRICT, Case No. CV09-05848. Wage and Hour Class Action seeking past wages for meal and rest period violations for non-exempt employees employed by defendant in the state of California. Case settled. Awaiting Preliminary Approval hearing. Plaintiff has petitioned the Court for Lead Counsel.

n. *Herrador v. Culligan International Company, et al*., USDC, CENTRAL DISTRICT, Case No. SACV 08-680. Wage and Hour Class Action seeking past wages for field and branch employees of defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled and awaiting Final Approval.

o. *Defries v. Domain Restaurants, et al.,* Orange County Superior Court, Case No. 05CC00128. Wage and Hour Class Action seeking past wages for restaurant employees of defendant in the State of California. Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

p. *Denton v. BLB Enterprises, Inc., et al*., Orange County Superior Court, Case No. 07CC01292. Wage and Hour Class Action seeking unpaid overtime, meal and rest break violations for security guards employed by defendant in the State of California.

Plaintiffs' counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

q. *Rios v. Sandberg Furniture Manufacturing Co.*, Inc, et al., Los Angeles Superior Court, Case No. BC411477. Wage and Hour Class Action seeking unpaid meal and rest break violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

r. *McMurray v. Dave and Busters, Inc.*, et al., Orange County Superior Court, Case No. 06CC00099. Wage and Hour Class Action seeking past wages for meal and rest break violations for restaurant employees employed by defendant in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

s. *Osuna v. DFG Restaurants, Inc.,* et al., Los Angeles Superior Court, Case No. BC 330145. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant, DBA Carl's Jrs. in the State of California. Plaintiffs' counsel appointed as co-lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

t. Burns v. Gymboree Operations, Inc., et al., San Francisco Superior Court, Case No. CGC-07-461612. Wage and Hour Class Action seeking past wages for meal and rest break violations for retail employees employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

u. *Willems v. Diedrich Coffee, Inc.,* et al., Orange County Superior Court, Case No. 07CC00015. Wage and Hour Class Action seeking past wages of overtime for mis-classification of managers employed by Defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

v. *Davila, et al. v. Beckman Coulter, Inc.*, et al., Orange County Superior Court, Case

No. 07CC01347. Wage and Hour Class Action seeking past wages for overtime, meal and rest break violations for production workers employed by defendant in the State of California. Plaintiffs' counsel appointed lead counsel. Cased settled; final approval granted; no objections and funds fully distributed.

w. *Perez v. Naked Juice Company of Glendora, Inc*., Los Angeles Superior Court, Case No. BC387088. Wage and Hour Class Action seeking past wages for overtime, meal and rest period violations for production employees employed by defendant in the State of California. Plaintiff counsel appointed as lead counsel. Case settled, Final Approval granted, no objections and funds fully distributed.

42. Here, the Parties' agreement to pay Class Counsel Fees of 33% of the GSA is reasonable. My firm and I have been the only counsel to represent Plaintiff and the Settlement Class in this matter, and we have borne the entire risk and cost of this litigation on a pure contingency fee basis. The legal issues raised drew significantly upon my experience and the extensive review and analysis of documents and information by me and others at my firm and our co-counsel. In a complex action such as this, the proposed attorneys' fees are, at the very least, on the low side of the market rate for contingency fees.

43. At this juncture, with the addition of more hours due to the administration of the Settlement by Class Counsel, administration of the Settlement, and preparation for final approval, counsel for plaintiff will provide a detailed analysis of its time in advance of the final approval hearing. Plaintiff's counsel will file a motion for attorneys' fees and costs to be heard concurrently with the motion for final approval in accordance with the terms of the settlement agreement.

44. Despite the complexity of the case, Class Counsel has, through the investment of substantial effort and the resources of my law firm been able to secure an outstanding settlement on behalf of the Settlement Class. Plaintiff would have faced substantial legal and factual obstacles in demonstrating that class certification was appropriate. Plaintiff would also have been required to establish a significant amount of witness testimony, pattern and practice evidence, statistical evidence, sampling evidence, expert testimony, and other evidence in order to present their case both at the class certification stage and trial. Defendants vigorously contested liability, the amount

of claimed damages, and the propriety of class certification, and would have continued to do so through trial. Accordingly, I believe the Settlement to be fair, reasonable, and adequate and in the best interests of the Settlement Class. The fairness and adequacy of the Settlement is confirmed by all known facts and circumstances, including the risk of significant delay and uncertainty associated with litigation, the various defenses asserted by Defendants, and numerous potential appellate issues.

I declare under penalty of perjury that the foregoing is true and correct. Executed on December 27, 2024 at Irvine, California.

James R. Hawkins

EXHIBIT 1

CLASS ACTION AND PAGA SETTLEMENT AGREEMENT

This Class Action and PAGA Settlement Agreement ("Agreement" or "Settlement") is made by and between plaintiff Ramon Aguila ("Plaintiff"), on one hand, and defendants Apidel Technologies, LLC ("Apidel") and Becton, Dickinson and Company (erroneously named by Plaintiff as Becton and Dickinson) ("BD," and together with Apidel, "Defendants"), on the other hand. The Agreement refers to Plaintiff and Defendants collectively as the "Parties," or individually as "Party."

1. DEFINITIONS

In addition to other terms defined in this Agreement, the terms below have the following meaning in this Agreement:

1.1. "Actions" collectively means Plaintiff's lawsuits titled: (1) *Ramon Aguila v. Becton and Dickinson, et al.*, originally filed in Santa Clara Superior Court as Case No. 22CV401816 and removed to the United States District Court for the Northern District of California and designated Case No. 22-cv-06670 EJD ("Federal Court Action"); and (2) *Ramon Aguila v. Becton and Dickinson*, *et al.*, filed in Santa Clara Superior Court and designated Case No. 22CV404498 ("State Court Action"), as amended.

1.2. "Administrator" or "Settlement Administrator" means Apex Class Action LLC, the neutral entity the Parties have agreed to appoint to administer the Settlement.

1.3. "Administrator Expenses" means the amount the Administrator will be paid from the Gross Settlement Amount to reimburse its reasonable fees and expenses in accordance with the Administrator's "not to exceed" bid submitted to the Court in connection with Preliminary Approval.

1.4. "Aggrieved Employees" means all individuals who were employed by Apidel and staffed at a BD facility in California and classified as a non-exempt employee at any time during the PAGA Period.

1.5. "Class Period" means the period of time from August 8, 2018 through the earlier of June 13, 2024 or the date the Court grants preliminary approval of this Settlement.

1.6. "Class" or "Class Members" means all individuals who were employed by Apidel and staffed at a BD facility in California and classified as a non-exempt employee at any time during the Class Period. Defendant represents there are approximately 113 Class Members, as of the time of mediation.

1.7. "Class Counsel" means James Hawkins APLC and its attorneys including James R.

Hawkins, Gregory Mauro, Michael Calvo, Lauren Falk and Ava Issary.

1.8. "Class Counsel Fees" and "Class Counsel Expenses" mean the amounts to be paid to Class Counsel for fees and expenses, respectively, as approved by the Court, to compensate Class Counsel for their legal work in connection with the Action, including their pre-filing investigation, their filing of the Action, all related litigation activities, all Settlement work, all post-Settlement compliance procedures, and related litigation expenses billed in connection with the Action.

1.9. "Class Data" means Class Member identifying information in Defendants' possession including the Class Member's name, employee ID number, last-known mailing address, Social Security number, email address (if known and available to Defendants), number of Workweeks during the Class Period, and number of PAGA Pay Periods.

1.10. "Class Member Address Search" means the Administrator's investigation and search for current Class Member mailing addresses using all reasonably available sources, methods and means including, but not limited to, the National Change of Address database, skip traces, and direct contact by the Administrator with Class Members by use of available email addresses, phone numbers, social security numbers, credit reports, LinkedIn and Facebook.

1.11. "Class Notice" means the NOTICE OF PROPOSED SETTLEMENT OF CLASS AND PAGA ACTION AND HEARING DATE FOR FINAL COURT APPROVAL, as approved by the Court and in substantially the same form as that attached as **Exhibit A** and incorporated by reference into this Agreement.

1.12. "Class Representative" means Plaintiff Ramon Aguila.

1.13. "Class Representative Service Payment" means the service payment made to Plaintiff as Class Representative in order to compensate him for initiating the Actions, performing work in support of the Actions, undertaking the risk of liability for Defendants' expenses, and for the general release of all claims by the Plaintiff.

1.14. "Court" means the Superior Court of California, County of Santa Clara.

1.15. "Defense Counsel" means (1) Spencer C. Skeen and Marlene M. Moffitt of Ogletree, Deakins, Nash, Smoak & Stewart, P.C., Attorneys for BD; and (2) Christopher Ward, Kevin Jackson, and Sara A.L. Abarbanel, Attorneys for Apidel.

1.16. "Effective Date" means the first date upon which all of the following events have occurred:

(a) the Court has held a final fairness and approval hearing and entered the final order and Judgment approving the Settlement; and,

(b) the later of: (a) the date sixty (60) days after notice of entry of the final approval order and Judgment, if no motions for reconsideration and no appeals or other efforts to obtain review have been filed; or (b) in the event that a motion for reconsideration, an appeal or other effort to obtain review of the final order and Judgment has been filed, the date sixty (60) days after such reconsideration, appeal or review has been finally concluded. In this regard, it is the intention of the Parties that the Effective Date of Settlement shall not be a date before the Court's order approving the Settlement has become completely final, and there is no timely recourse by any person who seeks to object to or otherwise contest the Settlement.

1.17. "Final Approval Hearing" means the Court's hearing on the motion for final approval of the Settlement to determine whether to approve finally and implement the terms of this Agreement and enter the Judgment.

1.18. "Gross Settlement Amount" means Two Hundred Seventy Five Thousand Dollars and Zero Cents ($275,000) which is the total amount to be paid by Defendants as set forth in this Agreement. Under no condition will Defendants be required to pay more than their respective contribution to the Gross Settlement Amount except as provided herein and in Paragraph 9 below. The Gross Settlement Amount will be used to pay Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator Expenses, all as approved by the Court. Any amounts not approved by the Court shall be added to the Net Settlement Amount to be distributed to Participating Class Members and shall not be grounds to object to or terminate the Settlement. The Gross Settlement Amount is an all-in amount without any reversion to Defendants, with no claim forms required, and excludes employer-side payroll taxes, if any, due on the portion of the Individual Class Payments allocated to wages which shall be the separate additional obligation of Apidel.

1.19. "Individual Class Payment" means the amount payable from the Net Settlement Amount to each Participating Class Member, as calculated by the Administrator, and excludes any amounts distributed to Aggrieved Employees pursuant to PAGA.

1.20. "Individual PAGA Payment" means the Aggrieved Employee's pro rata share of 25% of the PAGA Penalties paid from the Gross Settlement Amount, as calculated by the Settlement Administrator and based on the number of PAGA Pay Periods worked during the PAGA Period.

1.21. "Judgment" means a written order and judgment approving this Settlement on a final basis and incorporating by reference the terms and conditions of this Settlement.

1.22. "LWDA" means the California Labor and Workforce Development Agency, the agency entitled, under Labor Code section 2699, subd. (i).

1.23. "LWDA PAGA Payment" means the 75% of the PAGA Penalties paid to the LWDA from the Gross Settlement Amount as calculated by the Settlement Administrator, under Labor Code section 2699(i).

1.24. "Net Settlement Amount" means the Gross Settlement Amount, less the following payments in the amounts approved by the Court: PAGA Penalties, Class Representative Service Payment, Class Counsel Fees, Class Counsel Expenses, and Administrator Expenses.

1.25. "Non-Participating Class Member" means a Class Member who opts out of the class portion of this Settlement by submitting a valid and timely Request for Exclusion to the Administrator.

1.26. "Operative Complaint" means the First Amended Class and PAGA Representative Action Complaint filed in the State Court Action that consolidates the claims from the Federal Court Action into the State Court Action for purposes of this Settlement and obtaining court approval of the Settlement.

1.27. "PAGA Pay Period" means any pay period during which an Aggrieved Employee worked for at least one day during the PAGA Period. Defendant represents there are approximately 3,808 PAGA Pay Periods, as of the time of mediation.

1.28. "PAGA Period" means the period of time from August 8, 2021 through the earlier of June 13, 2024 or the date the Court grants preliminary approval of this Settlement.

1.29. "PAGA" means the California Labor Code Private Attorneys General Act of 2004, Labor Code §§ 2698, et seq.

1.30. "PAGA Notice" means Plaintiff's letter dated August 8, 2022 and any amendments thereto provided by Plaintiff, providing notice to the LWDA of potential Labor Code violations, as required under PAGA.

1.31. "PAGA Penalties" shall mean Thirty Thousand Dollars and Zero Cents ($30,000.00) to be allocated from the Gross Settlement Amount for settlement of PAGA Claims asserted in the Actions, as approved by the Court. If the Court requires a larger allocation, such amount shall be paid from the Gross Settlement Amount and will not be grounds for revoking or objecting to the Settlement.

1.32. "Participating Class Member" means a Class Member who does not submit a valid and timely Request for Exclusion.

1.33. "Released Class Claims" shall mean all claims asserted or that could have been alleged arising out of the facts, circumstances, and primary rights as alleged in the Operative Complaint and Actions which occurred during the Class Period; and, expressly excluding claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, and workers' compensation.

1.34. "Released PAGA Claims" shall mean the release from the LWDA, the State of California and Aggrieved Employees of all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the factual allegations stated in the Operative Complaint, the Actions, and the Plaintiff's PAGA Notice, which occurred during the PAGA Period.

1.35. "Released Parties" shall mean Defendants and each of their former and present insurers, brands, concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendants.

1.36. "Request for Exclusion" means a Class Member's submission of a written request to be excluded from the class portion of this Settlement, signed by the Class Member.

1.37. "Response Deadline" means sixty (60) calendar days after the Administrator mails the Class Notice to Class Members and Aggrieved Employees and shall be the last date on which Class Members may: (a) submit Requests for Exclusion from the Settlement, or (b) submit his or her objection to the Settlement. Class Members to whom Class Notices are resent after having been returned undeliverable to the Administrator shall have an additional 14 calendar days beyond the Response Deadline has expired.

1.38. "Workweek" means any week during the Class Period in which a Class Member worked for at least one day.

2. RECITALS

2.1. On August 8, 2022, Plaintiff commenced the Federal Court Action. Plaintiff's complaint alleged various wage-and-hour violations against Defendants, including those for:

(a) Failure to Pay Wages Including Overtime;
(b) Failure to Provide Meal Periods;
(c) Failure to Provide Rest Periods;
(d) Failure to Pay Timely Wages;

(e) Wage Statement Violations;
(f) Failure to Indemnify Necessary Business Expenses;
(g) Failure to Pay Reporting Time; and,
(h) Unfair Competition.

2.2. On October 13, 2022, Plaintiff filed the State Court Action. Plaintiff's complaint alleged similar wage-and-hour violations as the Federal Court Action but asserted the claims on a representative basis under PAGA. The alleged Labor Code violations include alleged violations of Labor Code §§ 201—204, 204b, 210, 246—248.7, 256, 226, 226.3, 226.7, 432, 510, 512, 516, 558, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802, 1198.5, and the related IWC Wage Orders.

2.3. Defendants denied, and continue to deny, the allegations in the Actions, deny any failure to comply with the laws identified in the Actions, and deny any and all liability for the causes of action alleged.

2.4. Defendants filed motions to compel arbitration in the Federal Court Action and State Court Action. The motion was granted in the State Court Action. However, the motion was denied in the Federal Court Action. Defendants timely appealed the denial.

2.5. Starting November 10, 2023, the Parties participated in a mandatory Ninth Circuit Mediation Assessment Conference with Stephen Liacouras, Chief Circuit Mediator. During that process, the Parties agreed to attend private mediation and participate in informal discovery in connection therewith.

2.6. On March 8, 2024, the Parties participated in a full-day mediation with mediator Lou Marlin, an experienced and highly respected employment law mediator. With Mr. Marlin's expert guidance, the Parties eventually negotiated a complete settlement of the Claims.

2.7. Prior to mediation, Plaintiff obtained sufficient documents and information to sufficiently investigate the claims such that Plaintiff's investigation was sufficient to satisfy the criteria for court approval set forth in *Dunk v. Foot Locker Retail, Inc.* (1996) 48 Cal.App.4th 1794, 1801 and *Kullar v. Foot Locker Retail, Inc.* (2008) 168 Cal.App.4th 116, 129-130 ("*Dunk/Kullar*").

2.8. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or will be construed as an admission by Defendants that the claims in the Actions have merit or that Defendants bear any liability to Plaintiff or the Class on those claims or any other claims, or as an admission by Plaintiff that Defendants' defenses in the Actions have merit. The Parties agree to certification of the Class for purposes of this Settlement only. If for any reason the Settlement does not become effective, Defendants reserve the right to contest certification of any class for any reason and reserve all available defenses to the claims in the Action. If the court does not grant either preliminary or final approval of the Settlement, the Parties will stipulate that the case will be returned to its status as of March 15, 2024.

2.9. As part of this Settlement Agreement, the Parties agreed to dismiss the Federal Court Action without prejudice and stipulate to toll the statute of limitations in the Class Action and permit the filing of a First Amended Class and PAGA Representative Action Complaint that consolidates the Federal Court Action into the Pending State Court Action PAGA Action.

2.10. To accomplish the foregoing, the Parties will stipulate to allow Plaintiff to file a First Amended Class and PAGA Representative Action Complaint. Thereafter, the Parties shall file whatever papers necessary to effectuate dismissal of the Federal Court Action without prejudice and agreement to toll the Class Period from the date of its original filing so as to maintain the status quo of the Class Action Complaint from its original filing date.

3. MONETARY TERMS

3.1. Defendants' Respective Contributions to the Gross Settlement Amount. Defendants agree to pay, on a non-reversionary basis, their respective contributions of the Gross Settlement Amount as set forth below, in consideration for Plaintiff and Class Counsel's promises, representations, and obligations set forth in this Agreement.

(a) Defendants' respective payment allocation of the Gross Settlement Amount is follows: Apidel is responsible for paying $137,500 of the Gross Settlement Amount, and BD is responsible for paying $137,500 of the Gross Settlement Amount.

(b) Apidel and BD shall only be responsible for their respective Gross Settlement Amount payment obligation as provided for herein. Apidel shall be responsible for any employer-side taxes resulting from the wage portion of the Individual Class Payment.

(c) The Gross Settlement Amount payment obligations of Apidel and BD are several, not joint or collective. Plaintiff recognizes Apidel and BD shall be responsible only for their Gross Settlement Amount payment obligations as set forth herein.

(d) In the event Apidel or BD fail to satisfy their payment obligation as provided herein and approved by the Court, Plaintiff, in his sole discretion, shall have the option to: a) terminate this Settlement as to only such non-paying Defendant; or b) seek to enforce the Settlement as to only such non-paying Defendant.

(e) In the event any Defendant does not satisfy its payment obligation as provided herein and approved by the Court, this release will still be effective as to the Defendant who does satisfy their payment obligation. For avoidance of doubt, this release will not be effective and shall not apply or extend to any Defendant that has not satisfied its payment obligation.

(f) The Parties agree there are no circumstances that would require Defendants to pay any amount greater than their allocation of the Gross Settlement Amount in connection with this Agreement, except as provided in Section 9 below. In the event this Agreement is canceled, rescinded, terminated, voided or nullified, however that may occur as permitted herein, or the Settlement is barred by operation of law, invalidated, or ordered not to be carried out by a court of competent jurisdiction, Defendants shall have no obligation to pay any of the Gross Settlement Amount. Further, in that event, nothing in this Agreement, the negotiations leading to this Settlement, nor any papers prepared in connection with this Agreement shall be admissible in any proceeding for any purpose whatsoever.

3.2. <u>Payments from the Gross Settlement Amount</u>. The Administrator will make the following payments from the Gross Settlement Amount, in the amounts specified by the Court in its order granting final approval of the Settlement.

(a) <u>To Plaintiff</u>: A Class Representative Service Payment to the Class Representative of not more than ($7,500) (in addition to any Individual Class Payment and any Individual PAGA Payment the Class Representative is entitled to receive under this Agreement). Defendants will not oppose Plaintiff's request for a Class Representative Service Payment that does not exceed this amount. As part of the motion for Class Counsel Fees and Class Counsel Expenses, Plaintiff will seek Court approval for any Class Representative Service Payments no later than 16 court days prior to the Final Approval Hearing. If the Court approves a Class Representative Service Payment less than the amount requested, the Administrator will retain the remainder in the Net Settlement Amount. The Administrator will pay the Class Representative Service Payment using IRS Form 1099. Plaintiff assumes full responsibility and liability for employee taxes owed on the Class Representative Service Payment.

(b) <u>To Class Counsel</u>: A Class Counsel Fees payment of not more than one-third (1/3) of the Gross Settlement Amount, which is currently estimated to be ($91,666.66) and a Class Counsel Expense payment of not more than ($20,000). Defendants will not oppose requests for these payments provided that do not exceed these amounts. Plaintiff and/or Class Counsel will file a motion for Class Counsel Fees and Class Counsel Expenses no later than 16 court days prior to the Final Approval Hearing. If the Court approves payment of Class Counsel Fees and/or Class Counsel Expenses for less than the amounts requested, the Administrator will allocate the remainder to the Net Settlement Amount. Released Parties shall have no liability to Class Counsel or any other Plaintiff's Counsel arising from any claim to any portion any Class Counsel Fees and/or Class Counsel Expenses. The Administrator will pay the Class Counsel Fees and Class Counsel Expenses using one or more IRS 1099 Forms. Class Counsel assumes full responsibility and liability for taxes owed on the Class Counsel Fees and/or Class Counsel Expenses and holds Defendants harmless, and indemnifies Defendants, from any dispute or controversy regarding any division or sharing of any of these payments.

(c) To the Administrator: An Administrator Expenses payment not to exceed $5,990 except for a showing of good cause and as approved by the Court. To the extent the Administrator Expenses is less or the Court approves payment less than $5,990, the Administrator will retain the remainder in the Net Settlement Amount for distribution to Participating Class Members.

(d) To the LWDA and Aggrieved Employees: PAGA Penalties in the amount of ($30,000) to be paid from the Gross Settlement Amount, with 75% ($22,500) allocated to the LWDA, and 25% (currently $7,500) allocated to Aggrieved Employees as set forth below.

i. Using the Class Data, the Administrator will calculate the Individual PAGA Payment for the Aggrieved Employees by, first, adding up the total number of PAGA Pay Periods for all Aggrieved Employees during the PAGA Period. The respective PAGA Pay Periods for each Aggrieved Employees will then be divided by the total PAGA Pay Periods for all Aggrieved Employees, resulting in the "PAGA Payment Ratio" for each Aggrieved Employee. Each Aggrieved Employee's PAGA Payment Ratio will then be multiplied by $7,500 (i.e., 25% of the PAGA Payment that is to be allocated to Aggrieved Employees pursuant to PAGA), to calculate the individual's Individual PAGA Payment. Aggrieved Employees assume full responsibility and liability for any taxes owed on their Individual PAGA Payment.

ii. Aggrieved Employees will received their Individual PAGA Payment regardless of whether they submit a Request for Exclusion.

iii. If the Court approves PAGA Penalties different from the amount requested, the Administrator will use the difference to adjust the Net Settlement Amount.

iv. Individual PAGA Payments shall be allocated and treated as 100% penalties and shall be reported by the Administrator on IRS 1099 Forms.

(e) To Each Participating Class Member: Individual Class Payments shall be paid from the Net Settlement Amount and shall be paid pursuant to the formula set forth herein.

i. Using the Class Data, the Administrator shall add up the total number of workweeks for all Participating Class Members. The respective workweeks for each Participating Class Member will then be divided by the total workweeks for all Participating Class Members, resulting in the Class Payment Ratio for each Participating Class Member. Each Participating Class Member's Class Payment Ratio will then be multiplied by the Net Settlement Amount to calculate each Participating Class Member's estimated Individual Class Payment.

ii. Each Individual Class Payment will be reduced by any legally mandated employee tax withholdings (e.g., employee payroll taxes, etc.).

iii. Individual Class Payments for Class Members who submit valid and timely Requests for Exclusion will be redistributed to Participating Class Members who do not submit valid and timely Requests for Exclusion, on a pro rata basis based on their respective Class Payment Ratios.

iv. Tax Allocation of Individual Class Payments. 20% of each Participating Class Member's Individual Class Payment will be allocated to settlement of wage claims (the "Wage Portion"). The Wage Portions are subject to tax withholding and will be reported on an IRS W-2 Form. 80% of each Participating California Class Member's Individual Class Payment will be allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties (the "Non-Wage Portion"). The Non-Wage Portions are not subject to wage withholdings and will be reported on IRS 1099 Forms. Participating Class Members assume full responsibility and liability for any employee taxes owed on their Individual Class Payment.

4. MOTION FOR PRELIMINARY APPROVAL.

4.1. Within 30 calendar days after execution of this Agreement, Plaintiff shall file with the Court a Motion for Order Granting Preliminary Approval ("Motion") and supporting papers, which shall include this Settlement Agreement and which shall comply with all applicable rules for such Motion. Plaintiff will provide Defendants with a draft of the Motion at least five (5) business days prior to the filing of the Motion to give Defendants an opportunity to review and comment upon the Motion.

4.2. Plaintiff shall submit this Agreement and a copy of the Motion to the LWDA, prior to or concurrently with the filing of the Motion in court.

4.3. Duty to Cooperate. The Parties and their counsel will cooperate with each other and use their best efforts to implement the Settlement and obtain preliminary and final approval of the Settlement. If the Parties disagree on any aspect of the proposed motion for preliminary approval and/or the supporting declarations and documents, Class Counsel and Defense Counsel will work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to resolve the disagreement. If the Court does not grant preliminary approval or conditions preliminary approval on any material change to this Agreement, Class Counsel and Defense Counsel will expeditiously work together on behalf of the Parties by meeting in person or by telephone, and in good faith, to modify the Agreement and otherwise satisfy the Court's concerns.

5. SETTLEMENT ADMINISTRATION

5.1. Selection of Administrator. The Parties have jointly selected Apex Class Action LLC to serve as Administrator and verified that, as a condition of appointment, the Administrator agrees to be bound by this Agreement and to perform, as a fiduciary, all duties specified in this Agreement in exchange for payment of Administration Expenses. The Administrator's duties will include preparing, printing, and mailing the Class Notice to all Class Members; conducting a National Change of Address search to update Class Member addresses before mailing the Class Notices; re-mailing Class Notices that are returned to the Class Member's new address; setting up a toll-free telephone number and email and a fax number to receive communications from Class Members; receiving and reviewing for validity completed Requests for Exclusion; providing the Parties with weekly status reports about the delivery of Class Notices and receipt of Requests for Exclusion, objections and disputes; calculating Individual Class Payments and Individual PAGA Payments; issuing the checks to effectuate the payments due under the Settlement; issuing the tax reports required under this Settlement; and otherwise administering the Settlement pursuant to this Agreement. The Parties and their Counsel represent that they have no interest or relationship, financial or otherwise, with the Administrator other than a professional relationship arising out of prior experiences administering settlements.

5.2. Qualified Settlement Fund. The Administrator shall establish and maintain (as necessary) a settlement fund that meets the requirements of a Qualified Settlement Fund ("QSF") under US Treasury Regulation section 468B-1.

5.3. Notice to Class Members.

(a) Class Data. Within fourteen (14) business days after notice of entry of the Court's order granting preliminary approval of this Settlement, Defendants shall provide the Settlement Administrator with the Class Data for purposes of preparing and mailing Class Notices to Class Members. The Class Data shall not be shared with either Plaintiff or Class Counsel unless expressly approved by Defendants and Defense Counsel. To protect Class Members' privacy rights, the Administrator must maintain the Class Data in confidence, use the Class Data only for purposes of this Settlement and for no other purpose.

(b) Within fourteen (14) days after receiving the Class Data, the Administrator will send to all Class Members identified in the Class Data, via first-class United States Postal Service ("USPS") mail, the Class Notice with Spanish translation substantially in the form attached to this Agreement as **Exhibit A**. The first page of the Class Notice shall prominently estimate the dollar amounts of any Individual Class Payment and/or Individual PAGA Payment payable to the Class Member/Aggrieved Employee, and the number of Workweeks and PAGA Pay Periods (if applicable) used to calculate these amounts. Before mailing Class Notices, the Administrator shall update Class Member addresses using the National Change of Address database.

(c) Not later than seven (7) days after the Administrator's receipt of any Class Notice returned by the USPS as undelivered, the Administrator shall re-mail the Class Notice using any forwarding address provided by the USPS. If the USPS does not provide a forwarding address, the Administrator shall conduct a Class Member Address Search, and re-mail the Class Notice to the most current address obtained. The Administrator has no obligation to make further attempts to locate or send Class Notice to Class Members whose Class Notice is returned by the USPS a second time.

(d) The deadlines for Class Members' written objections, challenges to workweeks and/or pay period calculations, and Requests for Exclusion will be extended an additional 14 days beyond the Response Deadline provided in the Class Notice for all Class Members whose notice is re-mailed. The Administrator will inform the Class Member of the extended deadline with the re-mailed Class Notice.

(e) If the Administrator, the Parties, Defense Counsel or Class Counsel is contacted by or otherwise discovers any persons who believe they should have been included in the Class Data and should have received Class Notice, the Parties will expeditiously meet and confer in person or by telephone, and in good faith, in an effort to agree on whether to include them as Class Members. If the Parties agree, such persons will be Class Members entitled to the same rights as other Class Members, and the Administrator will send, via email or overnight delivery, a Class Notice requiring them to exercise options under this Agreement not later than 14 days after receipt of Class Notice, or the deadline dates in the Class Notice, which ever are later.

5.4. Requests for Exclusion (Opt-Outs).

(a) Class Members who wish to exclude themselves (opt-out of) the Settlement must send the Administrator, by fax, email, or mail, a signed written Request for Exclusion not later than the Response Deadline (unless otherwise extended as set forth in this Agreement). To be valid, the Request for Exclusion must be in writing and must: (i) be signed by the Class Member; (ii) contain the name, address, telephone number, and the last four digits of the Social Security number of the Class Member requesting exclusion; (iii) clearly state the Class Member does not wish to be included in the Settlement; (iv) be returned via mail, email, or fax to the Settlement Administrator as specified in the Class Notice; and (v) be postmarked on or before the deadline.

(b) The date of the postmark on the return mailing envelope will be the exclusive means to determine whether a Request for Exclusion has been timely submitted.

(c) The Administrator's determination of whether the Request for Exclusion is timely and valid shall be final and not appealable or otherwise susceptible to challenge. If the Administrator has reason to question the authenticity of a Request for Exclusion, the Administrator may demand additional proof of the Class Member's identity. The Administrator's determination of authenticity shall be final and not appealable or otherwise susceptible to challenge.

(d) Every Class Member who does not submit a timely and valid Request for Exclusion is deemed to be a Participating Class Member under this Agreement, entitled to all benefits and bound by all terms and conditions of the Settlement, including the Participating Class Members' Releases set forth herein, regardless of whether the Participating Class Member actually receives the Class Notice or objects to the Settlement.

(e) Every Class Member who submits a valid and timely Request for Exclusion is a Non-Participating Class Member and shall not receive an Individual Class Payment or have the right to object to the class action components of the Settlement. Because future PAGA claims are subject to claim preclusion upon entry of the Judgment, Non-Participating Class Members who are Aggrieved Employees are deemed to release the claims identified in Paragraph 6.3 of this Agreement and are eligible for an Individual PAGA Payment. In other words, there shall be no right for Aggrieved Employees to request exclusion from the PAGA portion of this Settlement. If a Class Member submits both a Request for Exclusion and an objection (regardless of which came first), the objection shall nullify the Request for Exclusion and the Class member will be deemed a Participating Class Member.

5.5. Challenges to Calculation of Workweeks and Pay Periods. Each Class Member shall have until the Response Deadline (unless otherwise extended as set forth in this Agreement) to challenge the number of Class Workweeks and PAGA Pay Periods (if any) allocated to the Class Member in the Class Notice. The Class Member may challenge the allocation by communicating with the Administrator via fax, email or mail. The Administrator must encourage the challenging Class Member to submit supporting documentation. In the absence of any contrary documentation, the Administrator is entitled to presume that the Workweeks contained in the Class Notice are correct so long as they are consistent with the Class Data. The Administrator's determination of each Class Member's allocation of Workweeks and/or Pay Periods shall be final and not appealable or otherwise susceptible to challenge. The Administrator shall promptly provide copies of all challenges to calculation of Workweeks and/or Pay Periods to Defense Counsel and Class Counsel and the Administrator's determination as to the challenges.

5.6. Objections to Settlement.

(a) Class Members who submit a valid Request for Exclusion may not object to the Settlement.

(b) Only Class Members who do not submit valid Requests for Exclusion (i.e., Participating Class Members) may object, and even then they may only object to the class action components of the Settlement, including contesting the fairness of the Settlement, and/or amounts requested for the Class Counsel Fees, Class Counsel Expenses, and/or Class Representative Service Payment.

(c) Regardless of whether they submit a written Request for Exclusion, Class Members may not object to the PAGA portion of the Settlement, including without limitation the PAGA Penalties amount or their Individual PAGA Payment.

(d) Participating Class Members may send written objections to the Administrator, by fax, email, or mail. In the alternative, or in addition to a written objection, Participating Class Members may appear in Court (or hire an attorney to appear in Court) to present verbal objections at the Final Approval Hearing. A Participating Class Member who elects to send a written objection to the Administrator must do so not later than the Response Deadline (unless otherwise extended as set forth in this Agreement).

(e) Non-Participating Class Members have no right to object to any of the class action components of the Settlement. If a Class Member submits both a Request for Exclusion and an objection (regardless of which came first), the objection shall nullify the Request for Exclusion and the Class member will be deemed a Participating Class Member.

5.7. Administrator Duties. The Administrator's duties shall include those set forth in this Agreement and the following:

(a) Website, Email Address and Toll-Free Number. The Administrator will establish and maintain and use an internet website to post information of interest to Class Members including the date, time and location for the Final Approval Hearing and copies of the Settlement Agreement, motion for preliminary Approval and resulting order, the Class Notice, the motion for final approval including any papers submitted in support of the Class Counsel Fees Payment, Class Counsel Litigation Expenses Payment and Class Representative Service Payment, the final approval motion and resulting order, and Judgment entered pursuant to this Settlement. The Administrator will also maintain and monitor an email address and a toll-free telephone number to receive Class Member calls, faxes and emails.

(b) Request for Exclusion (Opt-Outs) and Exclusion List. The Administrator will promptly review on a rolling basis Requests for Exclusion to ascertain their validity. Not later than 7 days after the expiration of the deadline for submitting Requests for Exclusion, the Administrator shall email a list to Class Counsel and Defense Counsel containing (a) the names of Class Members who have timely submitted valid Requests for Exclusion ("Exclusion List"); (b) the names of Class Members who have submitted invalid Requests for Exclusion; (c) copies of all Requests for Exclusion from Settlement submitted (whether valid or invalid), with personal identifying information other than names redacted.

(c) Workweek and/or Pay Period Challenges. The Administrator has the authority to address and make final decisions consistent with the terms of this Agreement on all Class Member challenges over the calculation of Workweeks and/or Pay Periods. The Administrator's decision shall be final and not appealable or otherwise susceptible to challenge.

(d) Weekly Reports. The Administrator must, on a weekly basis, provide written reports to Class Counsel and Defense Counsel that, among other things, tally the number of: Class Notices mailed or re-mailed, Class Notices returned undelivered, Requests for Exclusion (whether valid or invalid) received, objections received, challenges to Workweeks and/or Pay Periods received and/or resolved, and checks mailed for Individual Class Payments and Individual PAGA Payments ("Weekly Report"). The Weekly Reports must include provide the Administrator's assessment of the validity of Requests for Exclusion and attach copies of all Requests for Exclusion and objections received, with personal identifying information other than names redacted.

(e) Administrator's Declaration. Not later than 7 days before the date by which Plaintiff is required to file the Motion for Final Approval of the Settlement, the Administrator will provide to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its due diligence and compliance with all of its obligations under this Agreement, including, but not limited to, its mailing of Class Notice, the Class Notices returned as undelivered, the re-mailing of Class Notices, attempts to locate Class Members, the total number of Requests for Exclusion from Settlement it received (both valid or invalid), the number of written objections and attach the Exclusion List. The Administrator will supplement its declaration as needed or requested by the Parties and/or the Court. Class Counsel is responsible for filing the Administrator's declaration(s) in Court.

(f) Final Report by Administrator. Within 10 days after the Administrator disburses all funds of the Gross Settlement Amount, the Administrator will provide Class Counsel and Defense Counsel with a final report detailing its disbursements by employee identification number only of all payments made under this Agreement. At least 7 days before any deadline set by the Court, the Administrator will prepare, and submit to Class Counsel and Defense Counsel, a signed declaration suitable for filing in Court attesting to its disbursement of all payments required under this Agreement. Class Counsel is responsible for filing the Administrator's declaration in Court. If a second declaration attesting to the distribution of uncashed checks is required, the Administrator shall provide this second declaration at least 7 days before any deadline for a second declaration and Class Counsel shall be responsible for filing the second declaration with the Court.

6. SETTLEMENT FUNDING

6.1. Funding Date. Defendants will pay their respective contributions for the Gross Settlement Amount to the QSF established by the Administrator within twenty-one (21) calendar days after the Effective Date.

7. PAYMENTS FROM THE GROSS SETTLEMENT AMOUNT

7.1. Within fourteen (14) days after Defendants fund the Gross Settlement Amount, the Administrator will mail checks for all Individual Class Payments, all Individual PAGA Payments, the LWDA PAGA Payment, the Administrator Expenses payment, the Class Counsel Fees payment, the Class Counsel Expenses payment, and the Class Representative Service Payment.

7.2. The Administrator will issue checks for the Individual Class Payments and/or Individual PAGA Payments and send them to the Class Members via First Class U.S. Mail, postage prepaid. The face of each check shall prominently state the "void date", which is 180 days after the date of mailing, when the check will be voided. Before checks are mailed, the Administrator shall update address information through the National Change of Address database. The Administrator will cancel all checks not cashed by the void date. The Administrator will send checks for Individual Class Payments to all Participating Class Members (including those for whom Class Notice was returned undelivered). The Administrator will send checks for Individual PAGA Payments to all Aggrieved Employees including Non-Participating Class Members who qualify as Aggrieved Employees (including those for whom Class Notice was returned undelivered). The Administrator may send Participating Class Members a single check combining the Individual Class Payment(s) and the Individual PAGA Payment. Before mailing any checks, the Administrator must update the recipients' mailing addresses using the National Change of Address Database. If a Participating Class Member's or Aggrieved Employee's check is not cashed within 120 days after its last mailing to the affected individual, the Administrator will also send the individual a notice informing him or her that unless the check is cashed by the void date, it will expire and become non-negotiable, and offer to replace the check if it was lost or misplaced but not cashed.

7.3. The Administrator must conduct a Class Member Address Search for all other Class Members whose checks are retuned undelivered without USPS forwarding address. Within 7 days of receiving a returned check the Administrator must re-mail checks to the

USPS forwarding address provided or to an address ascertained through the Class Member Address Search. The Administrator need not take further steps to deliver checks to Class Members whose re-mailed checks are returned as undelivered. The Administrator shall promptly send a replacement check to any Class Member whose original check was lost or misplaced, requested by the Class Member prior to the void date.

7.4. For any Class Member whose Individual Class Payment check or Individual PAGA Payment check is uncashed and cancelled after the void date, the Administrator shall transmit the funds represented by such checks to the California Controller's Unclaimed Property Fund in the name of the Class Member thereby leaving no "unpaid residue" subject to the requirements of California Code of Civil Procedure Section 384, subd. (b).

7.5. The payment of Individual Class Payments and Individual PAGA Payments shall not obligate Defendants to confer any additional benefits or make any additional payments to Class Members (such as 401(k) contributions or bonuses) beyond those specified in this Agreement.

8. RELEASE OF CLAIMS. As a material part of this Agreement, upon Defendants' payment of the Gross Settlement Amount, Plaintiff, Participating Class Members, Aggrieved Employees, and the LWDA will release claims against all Released Parties as follows:

8.1. Release by Participating Class Members. All Participating Class Members, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, release Released Parties from the Released Class Claims.

8.2. Release of PAGA Claims. All Aggrieved Employees, the State of California, and the LWDA are deemed to release, on behalf of themselves and their respective former and present representatives, agents, attorneys, heirs, administrators, successors, and assigns, the Released Parties from all of the Released PAGA Claims.

8.3. Plaintiff's General Release. In addition to the releases set forth above, Plaintiff and Plaintiff's former and present spouses, representatives, agents, attorneys, heirs, administrators, successors, and assigns, agree to a general release of any and all claims, transactions, or occurrences, known or unknown, against Released Parties—which will include without limitation any and all claims that in any way relate to Plaintiff's employment with Apidel and alleged employment with BD, assignment and staffing at BD, separation of employment and alleged employment with Apidel and BD, and any acts that have or could have been asserted in any legal action or proceeding against Defendants, whether known or unknown, arising under State or Federal law, in tort, common law, statute, contract, or equity, whether pled in the Actions or not, including but not limited to any claims under the California Labor Code, Fair Labor Standards Act, Americans with Disabilities Act, Title VII of the Civil Rights Act of 1964, Employee Retirement Income Security Act, National Labor Relations Act, California Corporations

Code, California Business and Professions Code, California Fair Employment and Housing Act, California Constitution (all as amended) or any Industrial Welfare Commission Wage Order, and law of contract and tort, as well as for discrimination, harassment, retaliation, wrongful termination, lost wages, benefits, other employment compensation, emotional distress, medical expenses, other economic and non-economic damages, attorney fees, and costs—now existing or arising in the future, based on any act, omission, event, occurrence, or nonoccurrence from the beginning of time to the date of execution hereof ("Plaintiff's Release"). Plaintiff's Release does not extend to any claims or actions to enforce this Agreement, or to any claims for vested benefits, unemployment benefits, disability benefits, social security benefits, or workers' compensation benefits that arose at any time, or based on occurrences outside the Class Period. Plaintiff acknowledges that Plaintiff may discover facts or law different from, or in addition to, the facts or law that Plaintiff now knows or believes to be true but agrees, nonetheless, that Plaintiff's Release shall be and remain effective in all respects, notwithstanding such different or additional facts or Plaintiff's discovery of them.

(a) Plaintiff's Waiver of Rights Under Civil Code Section 1542. For purposes of Plaintiff's Release, Plaintiff expressly acknowledges and waives and relinquishes the provisions, rights, and benefits, if any, of Section 1542 of the California Civil Code, which reads:

A general release does not extend to claims that 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.

Thus, notwithstanding the provisions of section 1542, and to implement a full and complete release and discharge of the Released Parties, Plaintiff expressly acknowledges this Settlement is intended to include in its effect, without limitation, all claims Plaintiff does not know or suspect to exist in Plaintiff's favor at the time of signing this Settlement, and that this Settlement contemplates the extinguishment of any such claims. Plaintiff warrants that he has read this Settlement, including this waiver of California Civil Code section 1542, and that Plaintiff has consulted with or had the opportunity to consult with counsel of Plaintiff's choosing about this Settlement and specifically about the waiver of section 1542, and that Plaintiff understands this Settlement and the section 1542 waiver, and so Plaintiff freely and knowingly enters into this Settlement. Plaintiff further acknowledges that Plaintiff later may discover facts different from or in addition to those Plaintiff now knows or believes to be true regarding the matters released or described in this Settlement, and even so Plaintiff agrees that the releases and agreements contained in this Settlement shall remain effective in all respects notwithstanding any later discovery of any different or additional facts. Plaintiff expressly assumes any and all risk of any mistake in connection with the true facts involved in the matters, disputes, or controversies released or described in this Settlement or with regard to any facts now unknown to

Plaintiff relating thereto. Plaintiff further acknowledges this waiver of the provisions of section 1542 was separately bargained for and is an essential and material term of this Agreement.

9. ESCALATOR CLAUSE.

9.1. Based on its records, Apidel estimates that, at the time of mediation, the Class consisted of 113 employees who worked 10,141 workweeks during the Class Period. In the event that the actual number of workweeks worked by Class Members during the Class Period increases by more than 10%, or more than 1,014.1, then Defendants shall increase their contribution to the Gross Settlement Amount on a proportional basis in excess of ten percent. For example, if there were an eleven percent (11%) increase in the number of workweeks for Class Members during the Class Period, the Gross Settlement Amount will increase by 1%, i.e., by $2,750, with Apidel and BD each contributing 50% ($1,375). Alternatively, Defendants will have the option to scale back the Class Period so as not to trigger the escalator.

9.2. In the event the Gross Settlement Amount is increased pursuant to this Paragraph, the Parties agree to submit a stipulation and amended order to the Court reflecting the updated Gross Settlement Amount.

10. DEFENDANTS' RIGHT TO WITHDRAW. If the number of valid Requests for Exclusion exceeds 10% of the total of the Class Members, Defendants may, but are not obligated to, elect to withdraw from the Settlement. The Parties agree that, if Defendants withdraw, the Settlement shall be void ab initio, have no force or effect whatsoever, and that neither Party will have any further obligation to perform under this Agreement; provided, however, Defendants will remain responsible for paying all Settlement Administration Expenses incurred as of the date Defendants make this election to withdraw. Defendants must notify Class Counsel and the Court of their election to withdraw not later than 10 days after the Administrator sends the final list of Requests for Exclusion to Defense Counsel. Invalid Requests for Exclusion will have no effect on this threshold for an election.

11. MOTION FOR FINAL APPROVAL. Unless otherwise ordered by the Court, not later than 16 court days before the calendared Final Approval Hearing, Plaintiff will file in Court, a motion for final approval of the Settlement that includes a request for approval of the PAGA portion of the Settlement under Labor Code section 2699(l), a proposed final approval order and Judgment (collectively "Motion for Final Approval"). Plaintiff shall provide drafts of these documents to Defense Counsel not later than 7 days prior to filing the Motion for Final Approval. Class Counsel and Defense Counsel will expeditiously meet and confer and in good faith, to resolve any disagreements concerning the Motion for Final Approval.

11.1. <u>Response to Objections</u>. Each Party retains the right to respond to any objection raised by a Participating Class Member, including the right to file responsive documents in Court no later than 5 court days prior to the Final Approval Hearing, or as otherwise ordered or accepted by the Court.

11.2. Duty to Cooperate. If the Court does not grant Final Approval or conditions Final Approval on any material change to the Settlement (including, but not limited to, the scope of release to be granted by Class Members), the Parties will expeditiously work together in good faith to address the Court's concerns by revising the Agreement as necessary to obtain Final Approval. The Court's decision to award less than the amounts requested for a Class Representative Service Payment, Class Counsel Fees, Class Counsel Expenses and/or Administrator Expenses shall not constitute a material modification to the Agreement within the meaning of this paragraph.

11.3. Continuing Jurisdiction of the Court. The Parties agree that, after entry of the final approval order and Judgment, the Court will retain jurisdiction over the Parties, Action, and the Settlement under C.C.P. section 664.6 solely for purposes of (i) enforcing this Agreement and/or Judgment, (ii) addressing settlement administration matters, and (iii) addressing such post-Judgment matters as are permitted by law.

11.4. Waiver of the Right to Appeal. Provided the Judgment is consistent with the terms and conditions of this Agreement, the Parties, their respective counsel, Aggrieved Employees, and all Participating Class Members who did not object to the Settlement as provided in this Agreement, waive all rights to appeal from the Judgment, including all rights to post-judgment and appellate proceedings, the right to file motions to vacate judgment, motions for new trial, extraordinary writs, and appeals. The waiver of appeal does not include any waiver of the right to oppose such motions, writs or appeals. If an objector appeals the Judgment, the Parties' obligations to perform under this Agreement will be suspended until such time as the appeal is finally resolved and the Judgment becomes final, except as to matters that do not affect the amount of the Net Settlement Amount.

11.5. Appellate Court Orders to Vacate, Reverse, or Materially Modify Judgment. If the reviewing Court vacates, reverses, or modifies the Judgment in a manner that requires a material modification of this Agreement (including, but not limited to, the scope of release to be granted by Class Members), this Agreement shall be null and void. The Parties shall nevertheless expeditiously work together in good faith to address the appellate court's concerns and to obtain Final Approval and entry of Judgment, sharing, on an equal basis, any additional Administration Expenses reasonably incurred at the time of remittitur. An appellate decision to vacate, reverse, or modify the Court's award of the Class Representative Service Payment or any payments to Class Counsel shall not constitute a material modification of the Judgment within the meaning of this paragraph, as long as the Gross Settlement Amount remains unchanged.

12. AMENDED JUDGMENT. If any amended judgment is required under Code of Civil Procedure section 384, the Parties will work together in good faith to jointly submit a proposed amended judgment.

13. ADDITIONAL PROVISIONS

13.1. No Admission of Liability, Class Certification or Representative Manageability for Other Purposes. This Agreement represents a compromise and settlement of highly disputed claims. Nothing in this Agreement is intended or should be construed as an admission by Defendants that any of the allegations in the Operative Complaint have merit or that Defendants have any liability for any claims asserted; nor should it be intended or construed as an admission by Plaintiff that Defendants' defenses in the Action have merit. The Parties agree that class certification and representative treatment is for purposes of this Settlement only. If, for any reason the Court does not grant preliminary approval or final approval or enter a judgment pursuant to this Agreement, the Parties will stipulate that class certification will be revoked without prejudice, Defendants reserve the right to contest certification of any class for any reasons, and Defendants reserve all available defenses to the claims in the Action, and Plaintiff reserves the right to move for class certification on any grounds available and to contest Defendants' defenses. The Settlement, this Agreement and Parties' willingness to settle the Action will have no bearing on, and will not be admissible in connection with, any litigation (except for proceedings to enforce or effectuate the Settlement and this Agreement).

13.2. No Solicitation. The Parties separately agree that they and their respective counsel and employees have not and will not solicit any Class Member to opt out of or object to the Settlement, or appeal from the judgment. Nothing in this paragraph shall be construed to restrict Class Counsel's ability to communicate with Class Members in accordance with Class Counsel's ethical obligations owed to Class Members.

13.3. No Publicity. Plaintiff and Class Counsel will not contact the media about the Settlement or respond to any inquiries by the media regarding the Settlement, other than to state that the matter was amicably settled, and the Court did not find Defendants liable. Plaintiff and their respective counsel also will not post any information about the Settlement on social media or their firms' websites.

13.4. Integrated Agreement. Upon execution by all Parties and their counsel, this Agreement together with its attached exhibits shall constitute the entire agreement between the Parties relating to the Settlement, superseding any and all oral representations, warranties, covenants, or inducements made to or by any Party.

13.5. Attorney Authorization. Class Counsel and Defense Counsel separately warrant and represent that they are authorized by Plaintiff and Defendants, respectively, to take all appropriate action required or permitted to be taken by such Parties pursuant to this Agreement to effectuate its terms, and to execute any other documents reasonably required to effectuate the terms of this Agreement including any amendments to this Agreement.

13.6. Cooperation. The Parties and their counsel will cooperate with each other and use their best efforts, in good faith, to implement the Settlement by, among other things, modifying the Settlement Agreement, submitting supplemental evidence and supplementing points and authorities as requested by the Court. In the event the Parties are unable to agree upon the form or content of any document necessary to implement the Settlement, or on any modification of the Agreement that may become necessary to implement the Settlement, the Parties will seek the assistance of a mediator and/or the Court for resolution.

13.7. No Prior Assignments. The Parties separately represent and warrant that they have not directly or indirectly assigned, transferred, encumbered, or purported to assign, transfer, or encumber to any person or entity and portion of any liability, claim, demand, action, cause of action, or right released and discharged by the Party in this Settlement.

13.8. No Tax Advice. Neither Plaintiff, Class Counsel, Defendants nor Defense Counsel are providing any advice regarding taxes or taxability, nor shall anything in this Settlement be relied upon as such within the meaning of United States Treasury Department Circular 230 (31 CFR Part 10, as amended) or otherwise.

13.9. Modification of Agreement. This Agreement, and all parts of it, may be amended, modified, changed, or waived only by an express written instrument signed by all Parties or their representatives, and approved by the Court.

13.10. Agreement Binding on Successors. This Agreement will be binding upon, and inure to the benefit of, the successors of each of the Parties.

13.11. Applicable Law. All terms and conditions of this Agreement and its exhibits will be governed by and interpreted according to the internal laws of the state of California, without regard to conflict of law principles.

13.12. Cooperation in Drafting. The Parties have cooperated in the drafting and preparation of this Agreement. This Agreement will not be construed against any Party on the basis that the Party was the drafter or participated in the drafting.

13.13. Headings. The descriptive heading of any section or paragraph of this Agreement is inserted for convenience of reference only and does not constitute a part of this Agreement.

13.14. Calendar Days. Unless otherwise noted, all reference to "days" in this Agreement shall be to calendar days. In the event any date or deadline set forth in this Agreement falls on a weekend or federal legal holiday, such date or deadline shall be on the first business day thereafter.

13.15. Execution in Counterparts. This Agreement may be executed in one or more counterparts by facsimile, electronically (i.e. DocuSign), or email which for purposes of this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.16. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement.

13.17. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

AGREED AS TO FORM AND CONTENT BY THE PARTIES:

Signed by:

Dated: 8/5/2024 ____________________

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Plaintiff Ramon Aguila

Dated: July 10, 2024 ____________________

Steve Conly [name]

For Becton, Dickinson and Company

Dated: __________ ____________________

____________________[name]

For Defendant Apidel Technologies, LLC

APPROVED AS TO FORM ONLY BY COUNSEL:

Dated: August 5, 2024 ____________________

James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Lauren Falk, Esq.
Ava Issary, Esq.
JAMES HAWKINS APLC
Attorneys for Plaintiff

this Agreement shall be accepted as an original. All executed counterparts and each of them will be deemed to be one and the same instrument if counsel for the Parties will exchange between themselves signed counterparts. Any executed counterpart will be admissible in evidence to prove the existence and contents of this Agreement.

13.16. Stay of Litigation. The Parties agree that upon the execution of this Agreement the litigation shall be stayed, except to effectuate the terms of this Agreement.

13.17. Fair Settlement. The Parties, Class Counsel and Defense Counsel believe and warrant that this Agreement reflects a fair, reasonable, and adequate settlement of the Action and have arrived at this Agreement through arms-length negotiations, taking into account all relevant factors, both current and potential.

AGREED AS TO FORM AND CONTENT BY THE PARTIES:

Dated: __________ ________________________________
Plaintiff Ramon Aguila

Dated: __________ ________________________________

________________________[name]
For Becton, Dickinson and Company

Dated: 7/12/24 Amita Patel

AMITA PATEL[name]
For Defendant Apidel Technologies, LLC

APPROVED AS TO FORM ONLY BY COUNSEL:

Dated: __________ ________________________________
James R. Hawkins, Esq.
Gregory Mauro, Esq.
Michael Calvo, Esq.
Lauren Falk, Esq.
Ava Issary, Esq.
JAMES HAWKINS APLC
Attorneys for Plaintiff

Dated: July 11, 2024

Spencer C. Skeen, Esq.
Marlene M. Moffitt, Esq.
OGLETREE, DEAKINS, NASH, SMOAK & STEWART, P.C
Attorneys for Defendant Becton Dickinson and Company

Dated: __________

Christopher Ward, Esq.
Kevin Jackson, Esq.
FOLEY & LARDNER LLP
Attorneys for Defendant Apidel Technologies, LLC

EXHIBIT A

[NOTICE OF PROPOSED SETTLEMENT OF CLASS AND PAGA ACTION AND HEARING DATE FOR FINAL COURT APPROVAL]

NOTICE OF PROPOSED SETTLEMENT OF CLASS AND PAGA ACTION AND HEARING DATE FOR FINAL COURT APPROVAL

(Ramon Aguila v. Becton and Dickinson; Apidel Technologies, LLC., **Santa Clara Superior Court, Case No. 22CV404498)**

YOUR LEGAL RIGHTS MAY BE AFFECTED WHETHER YOU ACT OR DO NOT ACT. PLEASE READ THIS NOTICE CAREFULLY.

SUMMARY OF YOUR LEGAL RIGHTS AND OPTIONS IN THIS SETTLEMENT:	
Do Nothing and Receive a Payment	To receive a cash payment from the Settlement, you do **not** have to do anything. **Your estimated Individual Settlement Payment is: $<<___>>. See the explanation below.** After final approval by the Court, the payment will be mailed to you at the same address as this notice. If your address has changed, please notify the Settlement Administrator as explained below. In exchange for the settlement payment, you will release claims against the Defendants as detailed below.
Exclude Yourself	If you wish to exclude yourself from the Settlement, you must send a written request for exclusion to the Settlement Administrator as provided below. If you request exclusion, you will receive **no money from the Settlement**. Instructions are set forth below.
Object	You may write to the Court about why you believe the settlement should not be approved. Directions are provided below.

1. Why did I get this Notice?

A proposed class and PAGA representative action settlement (the "Settlement") of the above-referenced lawsuit pending in the Superior Court for the State of California, County of Santa Clara (the "Court") has been reached between Plaintiff Ramon Aguila ("Plaintiff" or "Class Representative") and Defendants Becton, Dickinson and Company (erroneously named as Becton and Dickinson)("BD") and Apidel Technologies, LLC ("Apidel," and together with BD, "Defendants"). The Court has granted preliminary approval of the Settlement. **You may be entitled to receive money from this Settlement.**

You have received this Settlement Notice because you have been identified as a member of the Class for whose benefit the Settlement was reached. The Class is defined as:

> All individuals who were employed by Apidel and staffed at a BD facility in California and classified as a non-exempt employee at any time during the period beginning August 8, 2018 through <<INSERT END DATE>> [the earlier of June 13, 2024 or date of preliminary approval] ("Class Period").

This Settlement Notice explains the lawsuit, the Settlement, and your legal rights. It is important that you read this Notice carefully as your rights may be affected by the Settlement.

2. What is this class action lawsuit about?

On August 8, 2022, Plaintiff filed a class action lawsuit against Defendants, alleging various wage-and-hour violations under California law. Plaintiff also filed a Notice of Violations with the Labor and Workforce Development Agency ("LWDA") pursuant to the California Labor Code Private Attorneys General Act ("PAGA"), and served the same on Defendants.

On October 13, 2022, Plaintiff initiated the present action ("Action") against Defendants under PAGA, alleging similar underlying wage-and-hour violations as the class action. The class and PAGA actions were ultimately consolidated in the present action. The operative complaint is the First Amended Complaint that alleges claims ("Claims") for: (1) Failure to Pay Wages Including Overtime; (2) Failure to Provide Meal Periods; (3) Failure to Provide Rest Periods; (4) Failure to Pay Timely Wages; (5) Wage Statement Violations; (6) Failure to Indemnify Necessary Business Expenses; (7) Failure to Pay Reporting Time; (8) Unfair Competition under Business & Professions Code section 17200, et seq.; and (9) Civil Penalties under PAGA. The alleged Labor Code violations include alleged violations of Labor Code §§ 201—204, 204b, 210, 246—248.7, 256, 226, 226.3, 226.7, 432, 510, 512, 516, 558, 1174, 1174.5, 1175, 1194, 1197, 1197.1, 1198, 2802, 1198.5, and the related IWC Wage Orders.

Defendants expressly deny any liability or wrongdoing of any kind associated with the claims alleged in the Action, dispute any wages, damages and penalties claimed by the Class Representative are owed, and further contend that, for any purpose other than settlement, the Action is not appropriate for class or representative action treatment. Defendants contend, among other things, that at all times they complied with the California Labor Code, the Industrial Welfare Commission Wage Orders, and all applicable law.

On March 8, 2024, the Parties participated in an all-day mediation with Louis Marlin, Esq., an experienced mediator of wage and hour class and PAGA actions. With the mediator's guidance, the Parties eventually negotiated a complete settlement of the Claims. The Court granted preliminary approval of the Settlement on <<INSERT PRELIMINARY APPROVAL DATE>>. At that time, the Court also preliminarily approved the Plaintiff to serve as the Class Representative, and the law firm James Hawkins APLC to serve as Class Counsel.

3. What are the terms of the Settlement?

Gross Settlement Amount. Defendants have agreed to pay an "all in" amount of Two Hundred Seventy Five Thousand Dollars and Zero Cents ($275,000) (the "Gross Settlement Amount") to fund the settlement. The Gross Settlement Amount includes the payment of all Individual Class Payments, Individual PAGA Payments, LWDA PAGA Payment, Class Counsel Fees, Class Counsel Expenses, Class Representative Service Payment, and Administrator Expenses, all as approved by the Court.

After the Effective Date, Defendants will pay the Gross Settlement Amount by depositing the money with the Settlement Administrator. "Effective Date" means the date the Judgment is no longer subject to appeal, or if an appeal is filed, the date the appeal process is completed, and the Judgment is affirmed.

Amounts to be Paid from the Gross Settlement Amount. The Settlement provides for certain payments to be made from the Gross Settlement Amount, which are subject to final Court approval, and which will be deducted from the Gross Settlement Amount before settlement payments are made to Class Members, as follows:

i. Administrator Expenses. Payment to the Settlement Administrator, estimated not to exceed $5,990.00, for expenses incurred in administering the Settlement, including expenses of sending this Notice, processing opt outs, and distributing settlement payments.

ii. Class Counsel Fees and Expenses. Payment to Class Counsel for an award of attorneys' fees of no more than 1/3 of the Gross Settlement Amount (currently $91,666.66) and actually incurred litigation expenses of not more than $20,000 for all expenses incurred as documented in Class Counsel's billing records, both subject to Court approval. Class Counsel have been prosecuting the Action on behalf of Plaintiff and the Class on a contingency fee basis (that is, without being paid any money to date) and have been paying all litigation costs and expenses.

iii. Class Representative Service Payment. A Class Representative Service Payment of up to Seven Thousand Five Hundred Dollars and Zero Cents ($7,500.00) to Plaintiff, or such lesser amount as may be approved by the Court, to compensate him for services on behalf of the Class in initiating and prosecuting the Action.

iv. PAGA Penalties. A payment of $30,000.00 for PAGA penalties, $22,500.00 of which will be paid to the LWDA and the remaining $7,500.00 will be distributed to Aggrieved Employees as described herein.

Calculation of Payments to Participating Class Members. After all the above payments of the court-approved Administrator Expenses, Class Counsel Fees and Expenses, Class Representative Service Payment, and PAGA Penalties are deducted from the Gross Settlement Amount, the remaining portion, called the "Net Settlement Amount," shall be distributed to class members who do **not** request exclusion ("Participating Class Members"). The Individual Class Payment for each Participating Class Member will be calculated by dividing the respective Workweeks for that Participating Class Member by the total Workweeks for all Participating Class Members, and multiplying that result by the Net Settlement Amount.

- A "workweek" is defined as a normal seven-day week of work during the Class Period in which, according to Defendants' records and as calculated by the Settlement Administrator, a member of the class worked at least one day during any such workweek.

Calculation of Individual PAGA Payments to Aggrieved Employees. Aggrieved Employees shall receive their respective Individual PAGA Payments regardless of whether they exclude themselves or opt-out of this Settlement. "Aggrieved Employees" means all individuals who were employed by Apidel and staffed at a BD facility in California and classified as a non-exempt employee at any time during the period of August 8, 2021 through <<INSERT END DATE>> [June 13, 2024 or preliminary approval, whichever is earlier] ("PAGA Period"). An Aggrieved Employee's portion of the PAGA Penalties ("Individual PAGA Payment") will be calculated by dividing the individual's respective pay periods worked during the PAGA Period by the total pay periods for all Aggrieved Employees during the PAGA Period, and multiplying that result by $7,500 (i.e., 25% of the PAGA Penalties that is to be allocated to Aggrieved Employees pursuant to PAGA).

If the Court grants final approval of the Settlement, you will automatically be mailed a check for your Individual Class Payment and Individual PAGA Payment (if applicable) to the same address as this Settlement Notice. You do not have to do anything to receive a payment. If your address has changed, you must contact the Settlement Administrator to inform them of your correct address to ensure you receive your payment.

Tax Matters. Twenty percent (20%) of each Individual Class Payment is allocated to wages. Taxes are withheld from this amount, and each Participating Class Member will be issued an Internal Revenue Service Form W-2 for such payment. Eighty percent (80%) of each Individual Class Payment is allocated to settlement of claims for non-wages, expense reimbursement, interest and penalties, which is not subject to withholdings and for which each Participating Class Member will be issued an Internal Revenue Service Form 1099 for that amount. In addition, no taxes will be withheld from the Individual PAGA Payment, and each Aggrieved Employee will be issued an Internal Revenue Service Form 1099 for such payment. Neither Class Counsel nor Defendants' counsel intend anything contained in this Settlement to constitute advice regarding taxes or taxability. You may wish to consult a tax advisor concerning the tax consequences of the payments received under the Settlement. The Settlement Administrator may distribute your Individual Class Payment and Individual PAGA Payment (if applicable) by way of a single check that combines both payments.

<u>No Credit Toward Benefit Plans</u>. The Individual Class Payments and Individual PAGA Payments will not be utilized to calculate any additional benefits under any benefit plans to which any Class Members 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 Class Members may be entitled under any benefit plans.

<u>Conditions of Settlement</u>. This Settlement is conditioned upon the Court entering an order granting final approval of the Settlement and entering judgment.

4. What Do I Release Under the Settlement?

<u>Released Claims</u>. Upon funding of the Gross Settlement Amount by Defendants, Plaintiff and the Participating Class Members shall release the Released Parties from all Released Class Claims for the Class Period. Upon funding of the Gross Settlement Amount by Defendants, Plaintiff, all Aggrieved Employees, the LWDA, and the State of California shall release the Released Parties from all Released PAGA Claims for the PAGA Period, irrespective of whether they opted-out of the class settlement, and will be bound by this PAGA release (the "Released PAGA Claims").

"Released Class Claims" means all claims asserted or that could have been alleged arising out of the facts, circumstances, and primary rights as alleged in the operative complaint and Action which occurred during the Class Period; and, expressly excludes claims for vested benefits, wrongful termination, unemployment insurance, disability, social security, and workers' compensation.

"Released PAGA Claims" means all claims for PAGA penalties that were alleged, or reasonably could have been alleged, based on the factual allegations stated in the operative complaint, Action, and PAGA Notice, which occurred during the PAGA Period.

"Released Parties" means Defendants and each of their former and present insurers, brands, concepts, affiliates, subsidiaries, parent companies, predecessors, successors, assigns, employees, officers, directors, agents, attorneys, administrators, representatives, heirs, estates, powers-of-attorney, and any individual or entity that could be jointly liable with Defendants.

This means that, if you do not timely and formally exclude yourself from the settlement, you cannot sue, continue to sue, or be part of any other lawsuit against Defendants about the legal issues resolved by this Settlement. It also means that all of the Court's orders in this Action will apply to you and legally bind you.

5. How much will my payment be?

Defendants' records reflect that you have <<_____>> Workweeks worked during the Class Period.

Based on this information, your estimated Individual Settlement Payment is <<_______>>.

Defendants' records reflect that you have <<_____>> pay periods worked during the PAGA Period.

Based on this information, your estimated Aggrieved Employee Payment is <<_______>>.

If you wish to challenge the information set forth above, then you must submit a written, signed dispute challenging the information along with supporting documents, to the Settlement Administrator at the address provided in this Notice no later than _______________ [sixty (60) days after the Notice or fourteen (14) days from the original response deadline for a re-mailed Notice].

6. How can I get a payment?

To get money from the settlement, you do not have to do anything. A check for your settlement payment will be mailed automatically to the same address as this Settlement Notice. If your address is incorrect or has changed, you must notify the Settlement Administrator. The Settlement Administrator is: Apex Class Action LLC.

The Court will hold a hearing on __________________ to decide whether to finally approve the Settlement. The hearing may be rescheduled or continued without further notice to you. If the Court approves the Settlement and there are no objections or appeals, payments will be mailed within a few months after this hearing. If there are objections or appeals, resolving them can take time, perhaps more than a year. Please be patient. After entry of the Judgment, the Settlement Administrator will provide notice of the final judgment to the Class Members by posting a copy of the Judgment on the administrator's website at www.__________________.com.

7. What if I don't want to be a part of the Settlement?

If you do not wish to participate in the Settlement, you may exclude yourself from the Settlement or "opt out." **If you opt out, you will receive NO money from the Settlement, and you will not be bound by its terms, except as provided as follows**. Irrespective of whether you exclude yourself from the Settlement or "opt out," you will be bound by the PAGA Release, you will be deemed to have released the Released PAGA Claims, and you will receive your Individual PAGA Payment (if you qualify).

To opt out, you must submit to the Settlement Administrator, by fax, email, or First Class Mail, a written, signed and dated request for exclusion postmarked no later than _______________. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700. The request for exclusion must state in substance that the Class Member has read the Class Notice and that he or she wishes to be excluded from the settlement of the class action lawsuit entitled *Ramon Aguila v. Becton and Dickinson; Apidel Technologies, LLC,* currently pending in Santa Clara Superior Court, Case No. 22CV404498. The request for exclusion must contain your name, current address, telephone number, signature and the last four digits of your Social Security Number for verification purposes. The request for exclusion must be signed by you. No other person may opt out for a member of the Class.

Written requests for exclusion that are postmarked after _____________, or are incomplete or unsigned will be rejected, and those Class Members will remain bound by the Settlement and the release described above. If you submit both a request for exclusion and objection to the Settlement (regardless of which came first), the objection will nullify the request for exclusion. If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object.

8. How do I tell the Court that I would like to challenge the Settlement?

If you have not opted out and believe the Settlement should not be finally approved by the Court for any reason, you may object to the proposed Settlement. Objections may be in writing and state the your name, current address, telephone number, signature, and last four digits of your Social Security Number for verification purposes, and describe why you believe the Settlement is unfair and whether you intend to appear at the final approval hearing. All written objections or other correspondence must also state the name and number of the case, which is ***Ramon Aguila v. Becton and Dickinson; Apidel Technologies, LLC,*** **Santa Clara Superior Court, Case No. 22CV404498**. Regardless of whether you submit a written objection, you may also appear at the final approval hearing (described in Section 9 below) and object.

To object to the Settlement, you cannot opt out. If you submit an objection to the Settlement and also a request to be excluded (opt-out), the objection will nullify the request for exclusion (opt-out). If the Court approves the Settlement, you will be bound by the terms of the Settlement in the same way as Class Members who do not object. Any Class Member who does not object in the manner provided in this Class Notice shall have waived any objection to the Settlement, whether by appeal or otherwise.

Written objections must be delivered or mailed to the Settlement Administrator no later than ________________. The address for the Settlement Administrator is 20371 Irvine Avenue, Newport Beach, CA 92660; Tel: (800) 355-0700.

The addresses for the Parties' counsel are as follows:

Class Counsel:
James R. Hawkins, Esq.
Gregory Mauro, Esq.
James Hawkins APLC
9880 Research Dr.
Irvine, CA 92618
T: (949) 387-7200
F: (949) 387-6676
Email: greg@jameshawkinsaplc.com

Counsel for Defendant Becton, Dickinson and Company (erroneously named as Becton and Dickinson):
Marlene M. Moffitt, Esq.
Ogletree, Deakins, Nash, Smoak & Stewart, P.C.
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Counsel for Defendant Apidel Technologies, LLC
Chris Ward, Esq.
Kevin Jackson, Esq.
Foley & Lardner LLP
11988 El Camino Real, Suite 400
San Diego, CA 92130-2594
T: 858.847.6734
kjackson@foley.com

9. When and where will the Court decide whether to approve the Settlement?

The Court will hold a Final Approval Hearing at 00:00 AM/PM on ________________, at the Santa Clara County Superior Court, Department 19, located at 191 N. First Street, San Jose, California 95113 before the Hon. Theodore Zayner. At this hearing, the Court will consider whether the Settlement is fair, reasonable, and adequate. The purpose of this hearing is for the Court to determine whether to grant final approval to the Settlement. If there are objections, the Court will consider them. The Court will listen to people who have made a timely written request to speak at the hearing or who appear at the hearing to object. This hearing may be rescheduled by the Court without further notice to you. **You are not required to attend** the Final Approval Hearing, although any Class Member is welcome to attend the hearing.

10. How do I get more information about the Settlement?

You may call the Settlement Administrator at _________ or write to *Ramon Aguila v. Becton and Dickinson; Apidel Technologies, LLC,* Santa Clara Superior Court, Case No. 22CV404498, Settlement Administrator, 20371 Irvine Avenue, Newport Beach, CA 92660 c/o __________________.

This notice summarizes the proposed settlement. More details are in the Settlement Agreement. You may receive a copy of the Settlement Agreement, the Final Judgment, or other Settlement documents by visiting the Settlement Administrator's website at www.__________________.com.

PLEASE DO NOT CALL THE COURT ABOUT THIS NOTICE.

IMPORTANT:

- You must inform the Settlement Administrator of any change of address to ensure receipt of your settlement payment.

- Settlement checks will be null and void 180 days after issuance if not deposited or cashed. In such event, the Settlement Administrator shall pay all funds from such uncashed checks to the State Controller's Unclaimed Property Fund. If your check is lost or misplaced, you should contact the Settlement Administrator immediately to request a replacement.