

SETTLEMENT AGREEMENT

THIS AGREEMENT, to be effective October __, 2019, is entered into by and among the Orange County Sanitation District (hereinafter "OCSD"), a county sanitation district duly organized pursuant to Section 4700 et seq. of the Health & Safety Code of the State of California, Aseptic Technology, LLC (hereinafter "Aseptic"), and Joshua Cua, an individual and CEO of Aseptic. OCSD, Aseptic, and Joshua Cua are sometimes hereinafter collectively referred to as the "Parties".

RECITALS

A. Aseptic has operated a beverage and dietary supplements manufacturing facility located at 24855 Corbit Place, Yorba Linda, CA, 92887, since 2013. Permit No. 50-1-001 was issued to Aseptic in August 2013 for the discharge of wastewater associated with the facility operation. Due to a change in ownership, the permit was re-issued in January 2014 as Permit No. 50-1-002 (later re-listed as 1-501002 and hereinafter referred to as "Permit No. 1-501002" or "Permit"). For at least 37 days from April 1, 2019 to June 17, 2019, Aseptic discharged without a valid permit and was therefore in violation with OCSD's Wastewater Discharge Regulations Ordinance OCSD-48 (hereinafter "the Ordinance" or "OCSD's Ordinance").

B. Joshua Cua is, and at all material times referred to herein has been, the Chief Executive Officer of Aseptic. In such capacity, Joshua Cua has been and is responsible for the daily business operations at Aseptic, including the proper disposal of wastewater generated from the manufacturing processes and all related reporting requirements in accordance with OCSD's Ordinance. As such, the Parties hereto acknowledge and agree that any acknowledgements, agreements, obligations and

commitments attributable to Aseptic herein shall be deemed to be acknowledgements, agreements, obligations and commitments attributable to Joshua Cua as well.

C. Between January 2016 and January 2018, Aseptic and OCSD entered into three separate payment agreements concerning Aseptic's repeated failure to make timely payment on various user charges and quarterly invoices as required under the Ordinance and Permit conditions. The contents and nature of these three agreements are summarized as follows:

1. In January 2016, the OCSD Board of Directors approved a payment agreement relating to Aseptic's failure to make timely payments for sewer user charges for fiscal year 2014-2015 (annual reconciliation) and the estimated sewer user charges for the first and second quarters of fiscal year 2015-2016. As of January 2016, Aseptic owed delinquent payments totaling \$199,228.03. Following execution of the payment agreement, OCSD renewed the Permit, which had previously expired in December 2015, for an approximately two-year period (expiration date of December 31, 2017).

2. In July 2017, the OCSD Board of Directors approved a second payment agreement relating to Aseptic's failure to make timely payments for sewer user charges for fiscal year 2015-2016 (annual reconciliation), the estimated sewer user charges for the fourth quarter of fiscal year 2015-2016 and the first, second, and third quarter of fiscal year 2016-2017, as well as penalties and interest. As of July 2017, Aseptic owed delinquent payments totaling \$451,161.54. This agreement required Aseptic to (i) make timely payments over a 12-month period for delinquent charges, and (ii) remit timely payments against new obligations, including user charges, during the term of the agreement

3. In January 2018, the OCSD Board of Directors approved a third payment agreement relating to Aseptic's failure to make timely payments for sewer user charges for fiscal year 2016-2017 (annual reconciliation) and the estimated sewer user charges for the first quarter of fiscal year 2017-2018. As of January 2018, Aseptic owed delinquent payments totaling \$252,315.72. This agreement required Aseptic to (i) make timely payments for delinquent charges, (ii) issue a letter of credit in favor of OCSD, and (iii) stipulate that Aseptic would make payments on future invoices in a timely manner.

D. On December 31, 2017, the Permit expired. Due to Aseptic's repeated failure to make timely payments pursuant to the Permit conditions, Ordinance, and the payment agreements, OCSD did not renew the Permit for the typical two-year period. Instead, the Permit was renewed in March 2018 for less than one month following the execution of the third payment agreement. The Permit, which expired on March 31, 2018, was then periodically renewed for only three months at a time. Therefore, the Permit was renewed for three-month periods in April 2018, July 2018, October 2018, and January 2019.

E. Between April 2018 and January 2019, Aseptic failed to make timely payment on two separate invoices: the fourth quarter invoice issued on June 30, 2018, and the second quarter invoice issued on December 31, 2018.

F. When the January 2019 Permit expired on March 31, 2019, OCSD did not renew the Permit due to Aseptic's repeated failure to promptly pay user charges as required under the Permit conditions, the Ordinance, and prior payment agreements

between OCSD and Aseptic.

G. Despite the expiration of the Permit on March 31, 2019, Aseptic continued to discharge industrial wastewater to OCSD facilities in violation of the Ordinance and federal and state laws. On April 11, 2019, OCSD issued Aseptic an Order to Cease Discharge Without a Valid Permit.

H. On May 6, 2019, OCSD received Aseptic's delinquent payment on the second quarter invoice issued on December 31, 2018. OCSD subsequently renewed the Permit on May 6, 2019, for a twenty-six (26) day period. The renewed Permit expired on May 31, 2019. When the May 2019 Permit expired on May 31, 2019, OCSD did not renew the Permit due to Aseptic's repeated failure to promptly pay user charges.

I. Despite the expiration of the Permit on May 31, 2019, Aseptic continued to discharge industrial wastewater to OCSD facilities in violation of the Ordinance and state and federal laws. On June 5, 2019, OCSD issued Aseptic an Order to Cease Discharge Without a Valid Permit. Between April 1, 2019 and June 17, 2019, Aseptic illegally discharged industrial wastewater without a valid permit for at least thirty-seven (37) days.

J. On June 18, 2019, OCSD met with Aseptic and agreed to settle the violations referenced herein associated with discharging without a permit.

K. All the actions or omissions described in Recitals G and I are significant violations of Permit No. 1-501002, OCSD's Ordinance, and state and federal laws. Pursuant to Government Code Sections 54739 and 54740.5 and Section 616 of OCSD's

Ordinance, OCSD has the authority to institute administrative enforcement proceedings and impose civil penalties on Aseptic for violations of the Ordinance and the terms of Aseptic's Permit No. 1-501002. Pursuant to this authority, OCSD is authorized to impose penalties up to Five-Thousand Dollars (\$5,000.00) per violation for each day of discharge in violation of any Ordinance or wastewater discharge limit imposed by OCSD, up to Three-Thousand Dollars (\$3,000.00) for each day for failing or refusing to timely comply with any compliance schedules established by OCSD, and up to Two-Thousand Dollars (\$2,000.00) for each day for failing or refusing to furnish technical, monitoring reports, or any other required documents.

G. During a compliance meeting on June 18, 2019 at OCSD's offices, OCSD met with Joshua Cua of Aseptic to discuss the aforementioned violations and the resolution of the non-compliance issues. During this compliance meeting, OCSD informed Aseptic of its intention to issue an administrative complaint. Aseptic expressed interest in settling the matters with OCSD.

H. The Parties now intend to resolve and settle all matters arising from the alleged violations occurring from April 1, 2019 through June 17, 2019, to avoid further administrative proceedings and the issuance of an Administrative Complaint against Joshua Cua and Aseptic, and the institution of any litigation that may follow based upon such matters.

NOW, THEREFORE, in consideration of the facts recited above and the covenants, conditions and promises set forth below, the Parties hereby agree as follows:

AGREEMENT

1. Aseptic shall pay to OCSD the total sum of One Hundred and Eighty-Five Thousand dollars (\$185,000.00) in settlement of all claims, actions, or charges that OCSD may have against Aseptic and Joshua Cua relating to any violations of the Ordinance which may have occurred from April 1, 2019 through June 17, 2019. This Settlement includes penalties for violating conditions set forth in the Ordinance. Aseptic shall make payment(s) in accordance with the following schedule:

<u>Due Date</u>	<u>Installment</u>	<u>Principal</u>	<u>Interest</u>	<u>Admin Fee</u>	<u>Payment</u>
11/1/2019	1	\$14,893.87	\$1,156.25	\$25.00	\$16,075.12
12/1/2019	2	\$14,986.96	\$1,063.16	\$25.00	\$16,075.12
1/1/2020	3	\$15,080.63	\$969.49	\$25.00	\$16,075.12
2/1/2020	4	\$15,174.89	\$875.24	\$25.00	\$16,075.13
3/1/2020	5	\$15,269.72	\$780.40	\$25.00	\$16,075.12
4/1/2020	6	\$15,365.16	\$684.96	\$25.00	\$16,075.12
5/1/2020	7	\$15,461.19	\$588.93	\$25.00	\$16,075.12
6/1/2020	8	\$15,557.83	\$492.30	\$25.00	\$16,075.13
7/1/2020	9	\$15,655.06	\$395.06	\$25.00	\$16,075.12
8/1/2020	10	\$15,752.90	\$297.22	\$25.00	\$16,075.12
9/1/2020	11	\$15,851.36	\$198.76	\$25.00	\$16,075.12
10/1/2020	12	\$15,950.43	\$99.69	\$25.00	\$16,075.12

The monthly amount includes a \$25 administrative handling fee, plus a 7.5% interest rate assessed each month to the principal balance. **The first payment of \$16,075.12 is due on or before November 1, 2019.**

(a) The payments pursuant to this Settlement Agreement shall be made payable by cashier or bank-issued check to Orange County Sanitation District, and delivered to the Administrative Offices of OCSD located at:

10844 Ellis Avenue
Fountain Valley, CA 92708

(b) Payments must be received by OCSD prior to 4:00 p.m. on the days listed

in the above schedule.

2. As part of this Settlement Agreement, Aseptic is required to complete all necessary actions to immediately cease discharging without a permit and attain compliance with all permit conditions and OCSD Ordinances as explained by OCSD in the Orders to Cease Discharge issued on April 11, 2019 and June 5, 2019.

3. Extraordinary Cost. Aseptic shall be responsible for payment of all reasonably necessary costs incurred by OCSD for sampling, testing, administration, and enforcement procedures, as deemed appropriate by OCSD, that exceed the ordinary cost of routine sampling and inspection and/or any routine activities. Routine sampling and inspection shall be defined as sampling, inspection, and monitoring activities conducted by OCSD on a monthly and quarterly basis. Reasonable costs may include, but are not limited to, engineering, inspection, sampling, and legal costs that may be incurred in order to enforce the provisions of this Settlement Agreement, OCSD's Ordinance, or Permit No. 1-501002.

4. In consideration of all of the foregoing, and except as otherwise set forth in this Settlement Agreement, the Parties do hereby, and for each of themselves, their heirs, executors, administrators, board members, successors, assigns, agents, subsidiaries, affiliates, servants, directors, officers, shareholders, attorneys, employees and partners, mutually release, acquit, and forever discharge each of the other parties hereto and his, her, their, or its heirs, executors, administrators, board members, successors, subsidiaries, affiliates, attorneys, agents, servants, directors, officers, shareholders, employees, partners, or representatives, and assigns (collectively, "Releasees") from any and all rights, claims, warranties, demands, debts, obligations, liabilities, actions, damages, costs, expenses, and other claims whatsoever that may be asserted against any other Releasee by reason of any matter occurring, performed, created, happening,

arising out of, or connected with Aseptic's violations of the Permit No. 1-501002 and OCSD's Ordinance from April 1, 2019 to June 17, 2019 and the OCSD's investigation of all such allegations and discharges.

5. The undersigned agree that they will forever refrain and forbear from commencing, instituting, or prosecuting any lawsuit, action or administrative proceeding against each other based on, arising out of, or in any way connected with Aseptic's violations of the Permit No. 1-501002 and OCSD's Ordinance from April 1, 2019 to June 17, 2019, and OCSD's investigation of all such allegations and discharges.

6. Notwithstanding the foregoing and any other provision of this Settlement Agreement, if OCSD subsequently initiates either administrative or judicial enforcement proceedings against Aseptic and Joshua Cua for any future violations of any OCSD ordinance or permit condition, the alleged violations contained herein shall be deemed to have occurred. In such circumstances, no civil penalties shall be subsequently awarded to OCSD for the violations occurring on or before **June 17, 2019**, but such violations may be considered in determining the appropriate sanction (including administrative penalties), if any, to issue as a result of any future violation(s) of the terms of OCSD ordinances, permit conditions, this Settlement Agreement, and/or any administrative order or requirement issued by OCSD.

7. Nothing herein shall be construed to limit the authority or ability of the Orange County Sanitation District to initiate legal or administrative proceedings against Aseptic and Joshua Cua for any violation of local, state, or federal wastewater discharge regulations occurring on or after **June 18, 2019**, or to enforce the terms of this Settlement Agreement or Permit No. 1-501002.

8. The undersigned represent and warrant to Releasees that each of the undersigned has not heretofore assigned or transferred, or purported to assign or

transfer, to any person, firm, corporation, association, or entity any of the rights, claims, warranties, demands, debts, obligations, liabilities, actions, damages, costs, expenses, and other claims whatsoever referred to herein, and each of the undersigned agrees to indemnify and hold harmless the other Releasee against, without limitation, any and all rights, claims, warranties, demands, debts, obligations, liabilities, actions, damages, costs, expenses, and other claims, including attorney fees, arising out or connected with any such assignment, transfer, or purported assignment or transfer.

9. The undersigned acknowledge that each has read the Settlement Agreement in full and understands and voluntarily consents and agrees to each and every provision contained herein.

10. Each of the parties agrees to bear all of its own attorney fees and costs arising out of, connected with, or relating to the subject matter of this Settlement Agreement and hereby specifically and expressly waives all claims, rights, and interest of every kind or nature whatsoever, whether provided for by contract, statute, or otherwise, for attorney fees and/or costs connected with, arising out of, and/or incurred in connection with the facts, claims and/or rights released in and by this Settlement Agreement except as expressly provided in Paragraph 12 below.

10. The undersigned further declare and represent that no promise, inducement, or agreement not herein expressed has been made to the undersigned; that this Settlement Agreement contains the entire agreement between the parties hereto; that terms of this Settlement Agreement are contractual and not a mere recital; and that these terms are the result of negotiations between the undersigned.

11. Any formal notice, demand or request provided for in this Agreement, or made in connection with this Agreement, shall be in writing and shall be deemed to be properly given or made if (a) personally delivered, or (b) sent by registered mail (postage

prepaid), to the persons specified:

To Aseptic Technology, LLC: Joshua Cua, CEO
Aseptic Technology, LLC
24855 Corbit Place
Yorba Linda, CA 92887

To Joshua Cua: Joshua Cua, CEO
c/o Aseptic Technology, LLC
24855 Corbit Place
Yorba Linda, CA 92887

To OCSD: James D. Herberg, General Manager
Orange County Sanitation District
10844 Ellis Avenue
Fountain Valley, CA 92708-8127

With Copy To: Bradley R. Hogin, Esq.
Woodruff, Spradlin & Smart
555 Anton Blvd., #1200
Costa Mesa, CA 92626-7670

12. Should litigation be initiated by either of the parties hereto to enforce the terms of this Settlement Agreement or the rights and duties of the parties in relation thereto, the prevailing party in such litigation shall be entitled, in addition to such other relief as may be granted, to a reasonable sum as and for its attorney fees and costs in the litigation, which sum shall be determined by the court in such litigation or in a separate action brought for that purpose.

13. The persons executing this Settlement Agreement represent and warrant to the Releasees that the execution and performance of the terms of this Settlement Agreement have been duly authorized by all requisite corporation, partnership, individual, municipal, or other entity requirements and that the undersigned have the right, power, legal capacity, and authority to execute and enter into this Agreement.

14. This Settlement Agreement shall be construed under and interpreted in

accordance with the laws of the State of California and as if drafted by both parties hereto.

15. This Settlement Agreement may be modified only by execution of a subsequent written agreement between the parties. No oral modification of the terms set forth herein shall be valid.

16. The undersigned acknowledge that each has been represented by counsel of their own choice in connection with the preparation and execution of this Settlement Agreement. The undersigned acknowledge and represent that each has read the Settlement Agreement in full and understands and voluntarily consents and agrees to each and every provision contained herein.

17. The recitals above are hereby incorporated into this section as though fully set forth herein and each party acknowledges and agrees that such party is bound, for purposes of this Agreement, by the same.

IN WITNESS WHEREOF, the Parties have entered into this Settlement Agreement as of the date first set forth above.

Aseptic Technology, LLC

Dated: _____

By: _____
Joshua Cua, CEO

Joshua Cua, an individual

Dated: _____

By: _____
Joshua Cua, CEO

ORANGE COUNTY SANITATION DISTRICT

Dated: _____

By: _____
James D. Herberg, General Manager

Approved as to form:

Dated: _____

By: _____
Bradley R. Hogin, General Counsel