IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT
DUPAGE COUNTY, ILLINOIS
CHANCERY DIVISION

PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, and *ex rel.* ROBERT BERLIN, State's Attorney for DuPage County, Illinois,	)	
Plaintiff,	)	
v.	)	No. 2018 CH 001329
STERIGENICS U.S., LLC, a Delaware limited liability company,	)	
Defendant.	)	

CONSENT ORDER

This matter coming before the Court pursuant to the agreement of the Parties (as defined below): (i) PEOPLE OF THE STATE OF ILLINOIS, *ex rel.* KWAME RAOUL, Attorney General of the State of Illinois, and *ex rel.* ROBERT BERLIN, State's Attorney for DuPage County, Illinois ("Plaintiff"), and the ILLINOIS ENVIRONMENTAL PROTECTION AGENCY ("Illinois EPA" and together with Plaintiff, the "State"), and (ii) Defendant, STERIGENICS U.S., LLC ("Sterigenics" or "Defendant"); the Court having jurisdiction over the State and Defendant (collectively, the "Parties") and the subject matter herein; the Parties being represented in open court or having waived appearance; the Court having reviewed the First Amended Complaint for Injunctive Relief and Civil Penalties filed on June 6, 2019 ("Complaint"); the Parties having agreed to the making of this Consent Order and submitting it to this Court for approval; and the Court otherwise being fully advised in the premises; the Court enters this Consent Order and orders the specified relief.

I. INTRODUCTION

This stipulation of facts is made and agreed upon for purposes of settlement only and as a factual basis for the Court's entry of the Consent Order and issuance of any injunctive relief. It is the intent of the Parties to this Consent Order that it be a final judgment on the merits of this matter.

A. Stipulated Facts.

1. Since at least January 30, 2006, Sterigenics has been and is a Delaware limited liability company duly authorized to transact business in the State of Illinois.

2. Since at least January 30, 2006 to present, Sterigenics has operated an ethylene oxide gas ("EtO") commercial sterilization enterprise.

3. From at least January 30, 2006, Sterigenics conducted EtO sterilization at two facilities located in Willowbrook, Illinois, in DuPage County. The first facility is located at 7775 South Quincy Street in Willowbrook ("Willowbrook I"), and the second facility is located at 830 Midway Street in Willowbrook ("Willowbrook II," and together with Willowbrook I, the "Site").

4. On June 8, 2015, Illinois EPA issued Clean Air Act Program Permit (CAAPP) No. 95120085 to Sterigenics, which permit remains in effect as of the date of this Consent Order.

5. On October 30, 2018, Plaintiff filed the original complaint, which was amended on June 6, 2019. The Complaint alleges that Sterigenics, through its emissions of EtO, (a) caused, threatened or allowed air pollution in violation of Section 9(a) of the Illinois Environmental Protection Act ("Act"), 415 ILCS 5/9(a) (2016), and Section 201.141 of the Pollution Control Board ("Board") Air Pollution Regulations, 35 Ill. Adm. Code 201.141; and (b) created and maintained a common law public nuisance.

6. On February 15, 2019, John Kim, Acting Director of Illinois EPA, issued a Seal

Order pursuant to 415 ILCS 5/34(b) that sealed "[a]ll storage containers of ethylene oxide" at the Site (the "Seal Order").

7. On February 18, 2019, Sterigenics challenged the Seal Order by filing an action in the United States District Court for the Northern District of Illinois, styled as *Sterigenics U.S., LLC v. Kim et al.*, Case No. 19-cv-1219 (U.S. Dist. Ct., N.D. Ill.) ("Federal Litigation"), which the District Court dismissed on May 3, 2019. On May 6, 2019, Sterigenics filed an action in the Circuit Court for DuPage County, *Sterigenics U.S., LLC v. Kim et al.*, Case No. 2019CH000566 (Cir. Ct., DuPage County) (the "State Seal Order Litigation"). In both the Federal Litigation and the State Seal Order Litigation, Sterigenics named Acting Director Kim and Illinois EPA as defendants.

8. Public Act 101-0022 took effect on June 21, 2019, and such Public Act applies to Willowbrook I and II. Defendant has stated its intention to comply with Public Act 101-0022 and acknowledges its obligation to do so.

B. Allegations of Non-Compliance

Plaintiff contends that Defendant has violated the following provisions of the Act, Board regulations and the common law:

Count I: Air Pollution in violation of Section 9(a) of the Act, 415 ILCS 5/9(a) (2016), and Section 201.141 of the Pollution Control Board Air Pollution Regulations, 35 Ill. Adm. Code 201.141.

Count II: Common Law Public Nuisance.

C. Non-Admission of Violations

1. Defendant represents that it has entered into this Consent Order for the purpose of settling and compromising disputed claims without having to incur the expense of contested litigation. By entering into this Consent Order and complying with its terms, Defendant does not

admit the allegations of violation within the Complaint referenced above, and Defendant's compliance with this Consent Order shall not be interpreted as including any such admission. Defendant specifically denies the alleged violations in the Complaint and states that it is agreeing to this Consent Order to avoid the cost of litigation and further disruption of its operations. Except as expressly set forth in Paragraph II.1, this Consent Order shall not be used in any other proceeding.

2. The Parties agree that by entering into this Consent Order, they are resolving the legal challenges made by Sterigenics to the findings and assertions set forth in the Seal Order, without any admission by Sterigenics as to their veracity, reliability or admissibility in other legal proceedings, and which Sterigenics continues to dispute. The Parties further agree that the Seal Order does not represent a final determination of any fact or legal conclusion by a court of law or the Illinois Pollution Control Board under 415 ILCS 5/34(b) or (d) and is not an adjudication of wrongdoing. The Parties further agree that by entering this Consent Order, the Court makes no determination as to the merits of the supporting findings of the Seal Order.

D. Duty to Cooperate

The Parties shall cooperate with each other in the implementation of this Consent Order.

II. APPLICABILITY

1. This Consent Order shall apply to and be binding upon the Parties to the Consent Order. Defendant waives as a defense to any enforcement action taken pursuant to this Consent Order the failure of any of its officers, directors, managers, members, agents, employees or successors or assigns to take such action as shall be required to comply with the provisions of this Consent Order. Plaintiff may use this Consent Order against Defendant in any subsequent enforcement action or permit proceeding as provided by Sections 39 and 42 of the Act, 415 ILCS

5/39 and 42 (2018).

2. Defendant shall notify each contractor to be retained to perform work required in this Consent Order of each of the requirements of this Consent Order relevant to the activities to be performed by that contractor, including all relevant work schedules and reporting deadlines, and shall provide a copy of this Consent Order to each contractor already retained no later than 30 calendar days after the date of entry of this Consent Order. In addition, Defendant shall provide copies of all schedules for implementation of the provisions of this Consent Order to the prime vendor(s) supplying the control technology systems and other equipment required by this Consent Order.

3. No change in ownership, corporate status or operator of the Site shall in any way alter the responsibilities of Defendant under this Consent Order. In the event that Defendant proposes to sell or transfer any real property or operations subject to this Consent Order, Defendant shall notify Plaintiff 30 calendar days prior to the conveyance of title, ownership or other interest, including a leasehold interest in the Site or a portion thereof. Defendant shall make as a condition of any such sale or transfer, that the purchaser or successor provide to Defendant Site access and all cooperation necessary for Defendant to perform to completion any compliance obligation(s) required by this Consent Order. Defendant shall provide a copy of this Consent Order to any such successor in interest and Defendant shall continue to be bound by and remain liable for performance of all obligations under this Consent Order. In appropriate circumstances, however, Defendant and such proposed purchaser or operator of the Site may jointly request, and Plaintiff, in its discretion, may consider modification of this Consent Order to obligate such proposed purchaser or operator to carry out future requirements of this Consent Order in place of, or in addition to, Defendant. This provision does not relieve Defendant from

compliance with any regulatory requirement regarding notice and transfer of applicable permits.

III. JUDGMENT ORDER

This Court has jurisdiction of the subject matter herein and of the Parties to the Consent Order and, having considered the stipulated facts and being advised in the premises, finds the following relief appropriate:

IT IS HEREBY ORDERED, ADJUDGED AND DECREED:

A. Beneficial Project(s)

1. Within 60 days of entry of this Consent Order, Defendant shall propose to Plaintiff, for its review and approval, one or more projects ("Project(s)") designed to benefit the environment in the State of Illinois, preferably in the Village of Willowbrook or neighboring communities of DuPage County. The Project(s) may include physical improvements or activities, such as educational scholarships or programming. Defendant may either perform the Project(s) or fund the Project(s) in whole or in part. Defendant shall contribute $300,000.00 towards the Project(s). The Project(s) shall neither displace any other source of funding for the fund, program, or project, nor fund any activity that Defendant is required by law to conduct or for which, as of the date of entry of the Consent Order, the Defendant has committed funds. Within 30 days of entry of this Consent Order, Defendant shall deposit the $300,000.00 for the Project(s) with an escrow agent approved by the Plaintiff, with instructions approved by the Plaintiff that disbursements shall be made only for Projects approved by Plaintiff under this Section III.A and only upon the joint direction of Plaintiff and Defendant.

2. Defendant's proposal shall include an implementation schedule, which shall be subject to the review and approval of Plaintiff.

3. Upon approval of Plaintiff, Defendant shall implement the Project(s) in accordance with the approved schedule.

4. Defendant shall complete the Project(s) no later than one year from entry of the Consent Order, unless an extended schedule is otherwise agreed to in writing by Plaintiff.

5. Within 30 days after the completion of the Project(s), the Defendant shall submit a Project(s) completion report, including a summary of all expenditures, to the contact persons identified in Section III.I of this Consent Order for review and confirmation that the Project(s) was performed pursuant to this Consent Order.

6. Within 30 days of the determination that any approved Project cannot be completed or the summary of expenditures for the approved Projects do not total the amount in Section III.A.1, above, Defendant shall propose one or more additional Projects designed to benefit the environment in the State of Illinois, preferably in the Village of Willowbrook or neighboring communities of DuPage County following the procedures above in Section III.A.2-5.

B. Stipulated Penalties, Interest and Default

1. If Defendant fails to complete any activity or fails to comply with any response or reporting requirement by the date specified in this Consent Order, Defendant shall provide notice to Plaintiff of each failure to comply with this Consent Order and shall pay stipulated penalties in the amount of $400 per day per violation for up to the first 15 days of violation, $500 per day per violation for the next 15 days of violation, and $1,000 per day per violation thereafter until such time that compliance is achieved. Plaintiff may make a demand for stipulated penalties upon Defendant for its noncompliance with this Consent Order. However, failure by Plaintiff to make

this demand shall not relieve Defendant of the obligation to pay stipulated penalties. All stipulated penalties shall be payable within 30 calendar days of the date Defendant knows or should have known of its noncompliance with any provision of this Consent Order.

2. If Defendant fails to make any payment required by this Consent Order on or before the date upon which the payment is due, Defendant shall be in default and the remaining unpaid balance of the penalty, plus any accrued interest, shall be due and owing immediately. In the event of default, Plaintiff shall be entitled to reasonable costs of collection, including reasonable attorney's fees.

3. Pursuant to Section 42(g) of the Act, interest shall accrue on any penalty amount owed by Defendant not paid within the time prescribed herein. Interest on unpaid penalties shall begin to accrue from the date such are due and continue to accrue to the date full payment is received. Where partial payment is made on any penalty amount that is due, such partial payment shall be first applied to any interest on unpaid penalties then owing.

4. The stipulated penalties shall be enforceable by Plaintiff. Nothing herein shall preclude Plaintiff from seeking remedies or sanctions arising from the failure to comply with this Consent Order, other than additional civil penalties under the Act.

C. Stipulated Penalty and Interest Payment Procedures

1. All payments required by Section III.B of this Consent Order shall be made by certified check or money order payable to Illinois EPA for deposit into the Environmental Protection Trust Fund. Payments shall be sent by first class mail and delivered to:

Illinois Environmental Protection Agency
Fiscal Services
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794-9276

2. The case name and case number shall appear on the face of the certified check or money order. A copy of the certified check or money order and any transmittal letter shall be sent to:

Daniel Rottenberg
Assistant Attorney General
Environmental Bureau
Illinois Attorney General's Office
69 W. Washington Street, Suite 1800
Chicago, Illinois 60602

D. Future Compliance

1. ***Prohibition on Operations at Willowbrook I.*** Subject to Paragraph III.D.7 (Emergency Temporary Operations) herein, Defendant shall not conduct any EtO sterilization operations (hereinafter "Operations") at Willowbrook I until Defendant has satisfied the requirements, and obtained the written approval, specified in Paragraph III.D.4(a) (Conditions Precedent to Restarting Operations at Willowbrook I). Upon Defendant's restart of Operations at Willowbrook I in accordance with the terms of this Consent Order, Defendant shall continue to comply with the terms of this Consent Order.

2. ***Construction Permit for Additional Capture and Control Measures at Willowbrook I.*** On June 24, 2019, Defendant submitted to Illinois EPA a construction permit application, requesting the issuance of a construction permit containing additional capture and control measures at Willowbrook I (the "Construction Permit"). Defendant addressed or included at least the following in its construction permit application for Willowbrook I:

a. Air dispersion modeling demonstrating that the planned modifications at Willowbrook I will be sufficient to ensure that the maximum long-term average modeled concentrations of EtO in micrograms per cubic meter ($\mu g/m^3$) attributable to any future

Operations at Willowbrook I will be at or below a level satisfactory to the Illinois EPA. The air dispersion modeling shall not include background EtO;

b. A description of the installation of the additional capture and control measures at Willowbrook I, including (i) permanent total enclosure providing 100% capture in accordance with U.S. Environmental Protection Agency Method 204 of all areas containing EtO (namely, processed product shipping areas, processed product storage areas, chamber areas and chamber work aisles) (aeration rooms, which are already under negative pressure, shall be included within the permanent total enclosure) ("PTE") and (ii) an overall control efficiency of 99.9% based on total mass of EtO measured at the inlet and the exhaust of the control system or 0.2 parts per million at the exhaust of the control system ("Required Control Efficiency");

c. A description of the air emission controls necessary to comply with the Required Control Efficiency;

d. A description of the routing of the existing Chemrox DEOXX packed tower chemical scrubber that currently exhausts through its own stack at Willowbrook I into the two-stage Advanced Air Technologies Safe Cell emission control system and dry bed reactor for additional treatment of the vacuum pump/chamber emissions;

e. A proposed annual EtO usage limit;

f. A proposed annual emissions limit;

g. A description regarding the elimination of the stack currently associated with the DEOXX scrubber;

h. A description with supporting technical information of the height to which the remaining stack will be raised to eliminate building-induced adverse effects of downwash; and

i. A description of continuous emissions monitoring to continuously measure EtO utilizing an enhanced FTIR following PS-15 or such other method approved by Illinois EPA.

3. ***Additional Plan Submissions to Illinois EPA***. No later than 30 days after the date of entry of this Consent Order:

a. Defendant shall have submitted to Illinois EPA, for review and approval as set forth in Paragraph III.D.8, a protocol ("Stack Test Protocol") for emissions testing of the control system at Willowbrook I to demonstrate compliance with the Required Control Efficiency ("Stack Testing"). The Stack Test Protocol shall include, at a minimum:

i. A requirement that Defendant submit a written notification of the expected date of the Stack Testing;

ii. A description of the specific procedures for the Stack Testing, which shall be representative of actual Operations and includes agreed-upon operating conditions and addresses the full cycle of the batch sterilization process commencing with the introduction of EtO from the sterilization chambers into the control system (first evacuation of chamber) and concluding when sterilized materials have been in the aeration room for at least one hour. Such procedures shall also include:

aa. The person(s) who will be performing sampling and analysis and their experience with similar stack tests;

bb. The specific conditions under which testing will be performed, including a discussion of why these conditions will be representative and the means by which the operating parameters for the emission unit(s) and any control equipment will be determined;

cc. The specific determinations of emissions and operations which are intended to be made, including sampling and monitoring locations;

dd. The test method(s) that will be used, including the specific U.S. Environmental Protection Agency-approved analytical and sampling technique if the specified test method can be used with different analytical and sampling techniques; and

ee. Any changes in standard methodology proposed to accommodate the specific circumstances of testing, with justification;

iii. A requirement that at least 5 business days prior to the actual date of the Stack Testing, Defendant shall submit to Illinois EPA a written notification of the actual date and expected time of the Stack Testing;

iv. A proposed schedule that provides Stack Testing will occur within 14 days after Defendant's restart of Operations at Willowbrook I; and

v. A requirement that as soon as practicable but no later than 30 days after the date of the Stack Testing, Defendant shall submit to Illinois EPA, for review and approval as set forth in Paragraph III.D.8, a report of the results of such testing (the "Stack Test Results Report"). The Stack Test Results Report shall include, at a minimum:

aa. A summary of results;

bb. A detailed description of the test method(s), including a description of sample points, sampling train, analysis equipment and test schedule;

cc. A detailed description of test conditions, including process information and control equipment information, *e.g.*, equipment condition and operating parameters during testing; and

dd. Data and calculations, including copies of all raw data sheets, and records of laboratory analyses, sample calculations and data on equipment calibration.

b. Defendant shall have submitted to Illinois EPA, for review and approval as set forth in Paragraph III.D.8, an ambient air monitoring plan ("Air Monitoring Plan") that includes, at a minimum:

i. a detailed description of the process for collecting and analyzing air samples for EtO at various locations near the Site and in the community every third day over a 30-day period while the Site is in operation;

ii. a schedule for implementation that includes a commencement date for ambient air monitoring not later than 14 days of the date of Illinois EPA's written approval of the Stack Test Results Report, provided, however, in the event that Willowbrook I is not in operation, Defendant shall propose an alternative start date to Illinois EPA for its approval; and

iii. A requirement that as soon as practicable but no later than 30 days after the date of the collection of the air samples pursuant to the approved Air Monitoring Plan, Defendant shall submit to Illinois EPA, for review and approval as set forth in Paragraph III.D.8, a report of the results of such testing (the "Air Monitoring Results Report"). The Air Monitoring Results Report shall include, at a minimum:

aa. A summary of results;

bb. A description of the test method(s), including a description of sample locations; and

cc. Wind and weather information for the sampling period.

4. ***Conditions Precedent to Restarting Operations at Willowbrook I.***

a. Construction Completion Report.

i. Prior to Defendant's restart of Operations at Willowbrook I, Defendant shall have submitted to the State, for review and approval as set forth in Paragraph III.D.8, a report (the "Construction Completion Report") which includes, at a minimum:

aa. A detailed description of Defendant's compliance with the Construction Permit issued by Illinois EPA;

bb. The dates of Illinois EPA's written approval of the (i) Stack Test Protocol and (ii) Air Monitoring Plan; and

cc. A certification of Defendant's demonstration of 100% capture of all areas containing EtO in accordance with U.S. Environmental Protection Agency Method 204 ("PTE Demonstration").

ii. The State's approval of the Construction Completion Report shall be conditioned upon Defendant's compliance with the Illinois EPA-issued Construction Permit, Illinois EPA's approval, in writing, of the Stack Test Protocol and Air Monitoring Plan and Defendant's certification of the PTE Demonstration. If such conditions are met, the State shall provide written approval of the Construction Completion Report to Defendant.

5. ***Cessation of Operations Upon Test Failure.*** If the Stack Testing demonstrates that the Required Control Efficiency is not being met, without any further order of Court, Defendant shall immediately cease Operations at Willowbrook I until (a) measures are in place that ensure the Required Control Efficiency is met and (b) the State approves such measures in writing.

6. ***Best Management Practices ("BMPs").*** Following Defendant's restart of Operations at Willowbrook I, Defendant shall implement and maintain the following BMPs:

a. Reduce the Lower Explosive Limit ("LEL") trigger for opening sterilization chambers to remove product from 25% to 5% of the LEL;

b. Minimize the generation of EtO emissions within the facility, including:

i. when emptying sterilization chambers of product, remove and immediately transport pallets directly to an aeration room, and in no event shall pallets be staged in the aisle before transporting to an aeration room; and

ii. maximize, to the extent practicable, the duration that a product remains in an aeration room before removal, consistent with approvals by the U.S. Food and Drug Administration and customer shipping demands for each particular product;

c. Monitor and manage the dry bed reactor media;

d. Review and update the BMPs identified in Paragraphs 6(a)-(c) at Willowbrook I on an annual basis; and

e. Keep a record, in writing, at Willowbrook I of all of the BMPs identified in Paragraphs 6(a)-(c) for up to 3 years, which record shall be made available for review by Illinois EPA upon request.

7. ***Emergency Temporary Operations.*** Notwithstanding any other provision in this Consent Order, and solely at the discretion of the State, the State may approve temporary, limited Operations at Willowbrook I if the State obtains information identifying a critical need for sterilization of one or more medical devices necessary to protect public health. The State's approval of temporary limited Operations, if granted under this paragraph, will be in writing and

will include specific parameters that will govern such Operations. Defendant's operations under this paragraph shall comply with the terms and conditions in the State's written approval. Defendant acknowledges and agrees that the decision to approve temporary, limited re-opening under this provision is not subject to Dispute Resolution under Section III.H or review by the Court.

8. ***Review Process for Defendant's Submittals Required Under This Consent Order.*** With respect to each of the plans and reports that Defendant submits to Illinois EPA or the State, as applicable, under this Consent Order, the following review process shall apply:

a Illinois EPA's review and approval of any of Defendant's submissions shall be in consultation with Plaintiff.

b. For submissions subject to review and approval by the State, the State shall provide a single, joint response accepting, accepting with conditions, or rejecting each such submission.

c. If any plan or report is accepted with conditions or rejected, within 10 business days after the date of the written notice of such acceptance with conditions or rejection, Defendant shall submit a revised plan or report to Illinois EPA or the State, as applicable, that addresses all of the identified conditions or deficiencies.

d. Upon issuance of a written approval of any plan or report, Defendant shall implement such plan or report in accordance with its approved terms and schedule.

e. Illinois EPA and the State, as applicable, shall make every effort to expedite review of Defendant's submittals with a goal of providing a written response within 30 days of receipt of each submittal. If Illinois EPA or the State, as applicable, is unable to provide a response within 30 days of receipt, Defendant shall be notified that

additional time for review is required and shall provide the reason why additional time is necessary. Following such notification, Illinois EPA or the State, as applicable, shall have no more than 15 days to complete the review. Defendant may seek relief from the Court to the extent the process of reviewing and approving any submittal has become unreasonably delayed beyond the additional time requested for review. Notwithstanding anything herein to the contrary, the provisions set forth in the Act regarding permit applications, including any required deadlines, govern Illinois EPA's review of the construction permit application described in Paragraph III.D.2. In addition to the foregoing, Illinois EPA or the State, as applicable, shall not unreasonably withhold its written approval of a submission made by Defendant under this Consent Order.

9. ***Prohibition on Operations at Willowbrook II.*** Defendant shall not conduct Operations at Willowbrook II unless and until: (a) it receives a final, effective construction permit from Illinois EPA; (b) the Parties amend this Consent Order by attaching that final, effective construction permit to this Consent Order; and (c) the Court enters such amendment. The Parties' intent is for any resumption of Operations at Willowbrook II to adhere to a similar process to that which is required for resumption of Operations of Willowbrook I and include an enforceable schedule, recognizing, however, that the modifications that will be made to Willowbrook II prior to any resumption of Operations are likely to differ in scope and in kind. The Parties agree that the construction permit application must include, at a minimum:

a. A schedule for Defendant's submission of a construction permit application for Willowbrook II, and a list of items that must be set forth in such application, including, without limitation, 100% capture and an overall control efficiency of 99.9% based on total mass of EtO measured at the inlet and the exhaust of the control

system or 0.2 parts per million at the exhaust of the control system;

b. A schedule for Defendant's submission of a stack test protocol and ambient air monitoring plan for Willowbrook II, and a list of items that must be included in such protocol and plan;

c. The conditions precedent to Defendant's restart of Operations at Willowbrook II, including the requirement that Defendant shall submit to the State for approval a Construction Completion Report and receive approval from the State prior to the resumption of Operations at Willowbrook II;

d. The cessation of Operations at Willowbrook II if the stack testing at Willowbrook II demonstrates that the Required Control Efficiency is not being met; and

e. A list of the best management practices at Willowbrook II.

10. ***Operating Permit Renewal.*** The terms and conditions of any Construction Permit(s) issued by Illinois EPA shall be included in the facility's operating permit renewal application for the Site.

11. Illinois EPA, its employees and representatives, shall have the right of entry into and upon Defendant's Site which is the subject of this Consent Order, at all reasonable times for the purposes of conducting inspections and evaluating compliance status. In conducting such inspections, Illinois EPA, its employees and representatives, may take photographs, collect samples and collect information, as they deem necessary. Defendant shall have the opportunity to assert that any such photographs or information collected from the Site be handled as trade secrets or confidential business information. Defendant shall be permitted to retain a copy of any documents collected from the Site. The Attorney General, his employees and representatives, and the DuPage County State's Attorney, his employees and representatives, may attend any

inspection of the Site with Illinois EPA.

12. This Consent Order in no way affects the responsibilities of Defendant to comply with any other federal, state or local laws or regulations, including but not limited to the Act and the Board regulations.

13. Defendant shall (a) comply with the Illinois EPA-issued Construction Permit, and (b) cease and desist from future violations of the Act and Board regulations that were the subject matter of the Complaint.

E. Complete Agreement

This Consent Order constitutes the final, complete, and exclusive agreement and understanding among the Parties with respect to the settlement embodied in this Consent Order and supersedes all prior agreements and understandings, whether oral or written, concerning the settlement embodied herein. Other than reports or other documents that are subsequently submitted and approved pursuant to this Consent Order, the Parties acknowledge that there are no representations, agreements or understandings relating to the settlement other than those expressly contained in this Consent Order.

F. *Force Majeure*

1. *Force majeure* is an event arising solely beyond the control of Defendant, which prevents the timely performance of any of the requirements of this Consent Order and shall include, but is not limited to, events such as floods, fires, tornadoes, other natural disasters, and labor disputes beyond the reasonable control of Defendant. An increase in costs associated with implementing any requirement of this Consent Order shall not, by itself, excuse Defendant for a failure to comply with such a requirement.

2. When a *force majeure* event occurs which causes or may cause a delay in the performance of any of the requirements of this Consent Order, Defendant shall orally notify Illinois EPA (James Morgan at 217.524.1376) within 48 hours of obtaining knowledge of the occurrence. Written notice shall be given to Plaintiff's representatives as listed in Section III.I of this Consent Order as soon as practicable, but no later than 10 calendar days after the claimed occurrence. This section shall be of no effect as to the particular event involved if Defendant fails to comply with these notice requirements.

3. Within 10 calendar days of receipt of any written *force majeure* notice, Plaintiff shall respond in writing regarding Defendant's claim of a delay or impediment to performance. If Plaintiff agrees that the delay or impediment to performance has been or will be caused by circumstances beyond the control of Defendant and that Defendant could not have prevented the delay by the exercise of due diligence, the Parties shall stipulate to an extension of the required deadline(s) for all requirement(s) affected by the delay, by a period equivalent to the delay actually caused by such circumstances. Such stipulation may be filed as a modification to this Consent Order. Defendant shall not be liable for stipulated penalties for the period of any such stipulated extension.

4. If Plaintiff does not accept Defendant's claim of a *force majeure* event, the Defendant must file a petition with the Court within 20 calendar days of receipt of Plaintiff's determination in order to contest the imposition of stipulated penalties. Plaintiff shall have 20 calendar days to file its response to said petition. The burden of proof of establishing that a *force majeure* event prevented the timely performance shall be upon Defendant. If this Court determines that the delay or impediment to performance has been or will be caused by circumstances solely beyond the control of Defendant and that Defendant could not have

prevented the delay by the exercise of due diligence, Defendant shall be excused as to that event (including any imposition of stipulated penalties), for all requirements affected by the delay, for a period of time equivalent to the delay or such other period as may be determined by this Court.

G. Enforcement and Modification of Consent Order

1. This Consent Order is a binding and enforceable order of this Court. This Court shall retain jurisdiction of this matter and shall consider any motion by any Party for the purposes of interpreting and enforcing the terms and conditions of this Consent Order. The Parties agree that notice of any subsequent proceeding to enforce this Consent Order may be made by certified mail, and waive any requirement of service of process.

2. The Parties to the Consent Order may, by mutual written consent, extend any compliance dates or modify the terms of this Consent Order without leave of this Court (except relating to any restart of Operations at Willowbrook II in accordance with Paragraph III.D.9). A request for any modification shall be made in writing and submitted to the representatives designated in Section III.I of this Consent Order. Any such request shall be made by separate document, and shall not be submitted within any other report or submittal required by this Consent Order. Any such agreed modification shall be in writing and signed by authorized representatives of each party, for filing and incorporation by reference into this Consent Order.

H. Dispute Resolution

1. Except as provided herein, the Parties to the Consent Order may seek to informally resolve disputes arising under this Consent Order, including but not limited to Illinois EPA's or the State's decision regarding appropriate or necessary response activity, approval or denial of any report, plan or other submission, or Plaintiff's rejection of a request for modification or termination of the Consent Order. Plaintiff reserves the right to seek enforcement

by the Court where Defendant has failed to satisfy any compliance deadline within this Consent Order. The following are also not subject to the dispute resolution procedures provided by this section: a claim of *force majeure*, a failure to make any required payment and any circumstances posing a substantial danger to the environment or to the public health or welfare of persons.

2. The dispute resolution procedure must be invoked by a Party through a written notice describing the nature of the dispute and the party's position with regard to such dispute. The other Party shall acknowledge receipt of the notice and schedule a meeting to discuss the dispute informally not later than 14 calendar days from the receipt of such notice. These informal negotiations shall be concluded within 30 calendar days from the date of the first meeting between the Parties, unless the Parties agree, in writing, to shorten or extend this period. The invocation of dispute resolution, in and of itself, shall not excuse compliance with any requirement, obligation or deadline contained herein, and stipulated penalties may be assessed for failure or noncompliance during the period of dispute resolution; provided, however, while stipulated penalties may continue to accrue during any dispute resolution period, such stipulated penalties need not be paid until 30 days after the dispute is resolved. As part of the resolution of any dispute, the Parties to the Consent Order, by agreement or by order of this Court, may extend or modify the schedule for completion of work under this Consent Order to account for the delay in the work that occurred as a result of dispute resolution.

3. In the event that the Parties are unable to reach agreement during the informal negotiation period, Plaintiff shall provide Defendant with a written summary of its position regarding the dispute. The position advanced by Plaintiff shall be considered binding unless, within 20 calendar days of Defendant's receipt of the written summary of Plaintiff's position, Defendant files a petition with this Court seeking judicial resolution of the dispute. Plaintiff shall

respond to the petition by filing the administrative record of the dispute and any argument responsive to the petition within 20 calendar days of service of Defendant's petition. The administrative record of the dispute shall include the written notice of the dispute, any responsive submittals, Plaintiff's written summary of its position, Defendant's petition before the Court and Plaintiff's response to the petition. Plaintiff's position shall be affirmed unless, based upon the administrative record, it is against the manifest weight of the evidence.

I. Notice and Submittals

Except for payments, the submittal of any notice, reports or other documents required under this Consent Order, shall be delivered to the following designated representatives:

FOR PLAINTIFF
Daniel Rottenberg
Stephen Sylvester
Assistant Attorneys General, Environmental Bureau
Office of the Illinois Attorney General
69 W. Washington Street, 18th floor
Chicago, Illinois 60602
Phone: (312)814-3816/2087
Fax: (312)814-2347
drottenberg@atg.state.il.us
ssylvester@atg.state.il.us

Lisa A. Smith
Assistant State's Attorney
DuPage County State's Attorney
503 N. County Farm Road
Wheaton, IL 60137
Lisa.smith@dupageco.org

FOR ILLINOIS EPA
James Morgan
Deputy General Counsel, Division of Legal Counsel
Illinois Environmental Protection Agency
P.O. Box 19276
1021 North Grand Avenue East
Springfield, IL 62794-9276
James.morgan@Illinois.gov

Kevin Mattison
Compliance Section, Des Plaines (3rd Floor)
Illinois Environmental Protection Agency
9511 Harrison Street
Des Plaines, IL 60016
Kevin.Mattison@illinois.gov
(one hard copy of each submittal, and email copy)

Compliance Section #40
Bureau of Air
Illinois Environmental Protection Agency
1021 North Grand Avenue East
P.O. Box 19276
Springfield, IL 62794
kent.mohr@illinois.gov
(one hard copy of each submittal, and email copy)

FOR DEFENDANT
Sterigenics U.S., LLC
Attn: President, Vice President Environmental Health and Safety, and General Counsel
2015 Spring Road, Suite 650
Oak Brook, IL 60523

Byron F. Taylor
Sidley Austin LLP
1 S. Dearborn
Chicago, IL 60603

J. Release Provisions

1. ***Seal Order Release.*** Within 2 business days of the entry of this Consent Order, Illinois EPA shall remove the Seal Order. Upon removal of the Seal Order by Illinois EPA, (a) Defendant releases, waives and forever discharges the State, and any agent, officer, or employee

thereof, from all actions, claims, causes of actions and demands for any costs, attorney's fees, damages or other relief that Defendant asserted in the Federal Litigation and the State Seal Order Litigation or could have asserted to challenge the Seal Order, including without limitation claims for damages based on the issuance of the Seal Order, as of the date the Court enters this Consent Order, and (b) within 2 business days of Illinois EPA's removal of the Seal Order, the Parties shall file a joint stipulation of dismissal of the State Seal Order Litigation with prejudice.

2. ***Complaint Release.***

a. Upon written confirmation of the escrow agent's receipt of the escrow funds required under Section III.A. of this Consent Order, the State releases, waives and forever discharges Defendant from any monetary penalties or other monetary payments for alleged violations of the Act, Board regulations and common law that were the subject matter of the Complaint or that could have been asserted as of the date the Court enters this Consent Order based on the facts asserted in the Complaint.

b. Upon the earlier to occur of (i) Illinois EPA's written approval of the Construction Completion Report or (ii) any termination of this Consent Order pursuant to Section III.K. below, the State releases, waives and forever discharges Defendant from any and all further injunctive relief or any other liabilities, subject to Paragraph III.J.2.a above, for the alleged violations of the Act, Board regulations and common law that were the subject matter of the Complaint or that could have been asserted as of the date the Court enters this Consent Order based on the facts asserted in the Complaint.

c. Plaintiff reserves, and this Consent Order is without prejudice to, all rights of the State against Defendant with respect to all other matters, including but not limited to the following:

i. criminal liability;

ii. liability for future violations;

iii. liability for natural resources damage arising out of the alleged violations; and

iv. Defendant's failure to satisfy the requirements of this Consent Order.

Nothing in this Consent Order is intended as a waiver, discharge, release, or covenant not to sue for any claim or cause of action, administrative or judicial, civil or criminal, past or future, in law or in equity, which the State may have against any person, as defined by Section 3.315 of the Act, 415 ILCS 5/3.315, other than Defendant.

K. Termination

1. ***Continued Operations.***

a. Defendant may request that this Consent Order terminate no sooner than 5 years after Defendant has completed all actions required of Defendant in the Consent Order, provided that Defendant has been in compliance with the terms of the Consent Order for the 5 years preceding the request. Any such request must be made by notice to Plaintiff and include a statement that Defendant has completed all actions required by this Consent Order and has been in compliance with the terms of the Consent Order for the 5 years preceding the request and the following certification by a responsible corporate official of Defendant:

> I certify under penalty of law that this statement was prepared under my direction or supervision, and that the information submitted in or accompanying this statement of final compliance is to the best of my knowledge true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the

possibility of fine and or imprisonment for knowing violations.

b. Plaintiff shall notify Defendant of its decision on the request within 45 calendar days of Plaintiff's receipt of the request. If Plaintiff agrees to terminate this Consent Order, Plaintiff and Defendant shall jointly file a notice with the Court that the Consent Order is terminated. If Plaintiff does not agree to terminate this Consent Order, Plaintiff shall provide Defendant written notification stating the reasons why this Consent Order should not be terminated and Defendant may then invoke the Dispute Resolution provisions. The Consent Order shall remain in effect pending resolution of any dispute by the Parties or the Court concerning whether Defendant has completed its obligations under this Consent Order and is in compliance with the terms of the Consent Order.

2. ***Permanent Cessation of Operations***.

If Defendant permanently ceases Operations at either Willowbrook I and/or Willowbrook II, including surrendering its Illinois EPA-issued permits relating to such Operations, the Parties shall jointly file a request that the Consent Order be terminated, solely as to the facility ceasing Operations, pursuant to the provisions of Paragraph III.K.1., except that Defendant need not comply with the 5-year time requirement as to the affected facility ceasing Operations.

3. The provisions of Paragraph III.D.13 and Section III.J (Release Provisions) of this Consent Order shall survive and shall not be subject to and are not affected by the termination of any other provision of this Consent Order.

L. Execution and Entry of Consent Order

This Consent Order shall become effective only when executed by all Parties to the Consent Order and the Court. This Consent Order may be executed by the Parties in one or more counterparts, all of which taken together shall constitute one and the same instrument. The undersigned representatives for each Party certify that they are fully authorized by the Party whom they represent to enter into the terms and conditions of this Consent Order and to legally bind them to it.

[Remainder of Page Blank; Text Continues on Page 30]

WHEREFORE, the Parties, by their representatives, enter into this Consent Order and submit it to this Court that it may be approved and entered.

AGREED:

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

By: Elizabeth Wallace
Elizabeth Wallace, Chief
Environmental Bureau
Assistant Attorney General

Date: 7/16/19

PEOPLE OF THE STATE OF ILLINOIS
ex. rel. ROBERT B. BERLIN, State's Attorney
for DuPage County, Illinois

BY:_____
Lisa Smith
Assistant State's Attorney

Date:_____

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: _____
DANA VETTERHOFFER
Acting Chief Legal Counsel

DATE: _____

WHEREFORE, the Parties, by their representatives, enter into this Consent Order and submit it to this Court that it may be approved and entered.

AGREED:

PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

By: _____
Elizabeth Wallace, Chief
Environmental Bureau
Assistant Attorney General

Date: _____

PEOPLE OF THE STATE OF ILLINOIS
ex. rel. ROBERT B. BERLIN, State's Attorney
for DuPage County, Illinois

BY: Lisa Smith
Lisa Smith
Assistant State's Attorney

Date: July 16, 2019

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: _____
DANA VETTERHOFFER
Acting Chief Legal Counsel

DATE: _____

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PEOPLE OF THE STATE OF ILLINOIS
ex rel. KWAME RAOUL, Attorney General
of the State of Illinois,

MATTHEW J. DUNN, Chief
Environmental Enforcement/Asbestos Litigation Division

By: _____
Elizabeth Wallace, Chief
Environmental Bureau
Assistant Attorney General

Date: _____

PEOPLE OF THE STATE OF ILLINOIS
ex. rel. ROBERT B. BERLIN, State's Attorney
for DuPage County, Illinois

BY: _____
Lisa Smith
Assistant State's Attorney

Date: _____

ILLINOIS ENVIRONMENTAL
PROTECTION AGENCY

JOHN J. KIM, Director
Illinois Environmental Protection Agency

BY: Dana Vetterhoffer
DANA VETTERHOFFER
Acting Chief Legal Counsel

DATE: 7-16-19

FOR DEFENDANT STERIGENICS U.S., LLC

BY: _____

Philip W. Macnabb
President of Sterigenics U.S., LLC

DATE: 16 July 2019

ENTERED: _____
JUDGE

DATED: 9-6-19