

ENDORSED  
FILED  
ALAMEDA COUNTY

SEP 09 2016

CLERK OF THE SUPERIOR COURT

By C. Wright

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19 Attorney for Defendants IMMUNOTEC, INC.,  
20 IMMUNOTEC RESEARCH, INC. and IMMUNOTEC  
21 RESEARCH LTD.

22 SUPERIOR COURT OF THE STATE OF CALIFORNIA

23 COUNTY OF ALAMEDA

24 ENVIRONMENTAL RESEARCH  
25 CENTER, INC. a non-profit California  
26 corporation,

27 Plaintiff,

28 v.

29 IMMUNOTEC, INC., a Canadian  
30 Corporation, IMMUNOTEC RESEARCH,  
31 INC., a Delaware corporation, and  
32 IMMUNOTEC RESEARCH LTD., a  
33 Canadian Limited Liability Company,

34 Defendants.

CASE NO. RG15793605

STIPULATED CONSENT  
JUDGMENT

Health & Safety Code § 25249.5 *et seq.*

Action Filed: November 17, 2015

Trial Date: None set

1. INTRODUCTION

1.1 On November 17, 2015, Plaintiff Environmental Research Center, Inc.

1 (“ERC”), a non-profit corporation, as a private enforcer, and in the public interest, initiated this  
2 action by filing a Complaint for Injunctive Relief and Civil Penalties (the “Complaint”)  
3 pursuant to the provisions of California Health and Safety Code section 25249.5 *et seq.*  
4 (“Proposition 65”), against IMMUNOTEC, INC., IMMUNOTEC RESEARCH, INC., and  
5 IMMUNOTEC RESEARCH LTD. (collectively “IMMUNOTEC”). In this action, ERC  
6 alleges that a number of products manufactured, distributed or sold by IMMUNOTEC contain  
7 lead, a chemical listed under Proposition 65 as a carcinogen and reproductive toxin, and expose  
8 consumers to this chemical at a level requiring a Proposition 65 warning. These products  
9 (referred to hereinafter individually as a “Covered Product” or collectively as “Covered  
10 Products”) are:

- 11 **a. Immunotec Research Inc. Immunotec Thermal Action**
- 12 **b. Immunotec Research Inc. Immunotec MiForm Shake Vanilla**
- 13 **c. Immunotec Research Inc. Immunotec MiForm Shake Chocolate**

14 **1.2** ERC and IMMUNOTEC are hereinafter referred to individually as a “Party”  
15 or collectively as the “Parties.”

16 **1.3** ERC is a California non-profit corporation dedicated to, among other causes,  
17 helping safeguard the public from health hazards by reducing the use and misuse of hazardous  
18 and toxic chemicals, facilitating a safe environment for consumers and employees, and  
19 encouraging corporate responsibility.

20 **1.4** For purposes of this Consent Judgment, the Parties agree that IMMUNOTEC is a  
21 business entity that has employed ten or more persons at all times relevant to this action, and  
22 qualifies as a “person in the course of business” within the meaning of Proposition 65.  
23 IMMUNOTEC manufactures, distributes and sells the Covered Products.

24 **1.5** The Complaint is based on allegations contained in ERC’s Notice of Violation  
25 dated August 28, 2015 that was served on the California Attorney General, other public  
26 enforcers, and IMMUNOTEC (“Notice”). A true and correct copy of the Notice is attached as  
27 **Exhibit A** and is hereby incorporated by reference. More than 60 days have passed since the  
28 Notice was mailed and uploaded to the Attorney General’s website, and no designated

1 governmental entity has filed a complaint against IMMUNOTEC with regard to the Covered  
2 Products or the alleged violations.

3       **1.6**     ERC's Notice and Complaint allege that use of the Covered Products exposes  
4 persons in California to lead without first providing clear and reasonable warnings in violation  
5 of California Health and Safety Code section 25249.6. IMMUNOTEC denies all material  
6 allegations contained in the Notice and Complaint.

7       **1.7**     The Parties have entered into this Consent Judgment in order to settle,  
8 compromise and resolve disputed claims and thus avoid prolonged and costly litigation.  
9 Nothing in this Consent Judgment shall constitute or be construed as an admission by any of  
10 the Parties, or by any of their respective officers, directors, shareholders, employees, agents,  
11 parent companies, subsidiaries, divisions, affiliates, franchisees, licensees, customers, suppliers,  
12 distributors, wholesalers, or retailers. Except for the representations made above, nothing in  
13 this Consent Judgment shall be construed as an admission by the Parties of any fact, issue of  
14 law, or violation of law, nor shall compliance with this Consent Judgment be construed as an  
15 admission by the Parties of any fact, issue of law, or violation of law, at any time, for any  
16 purpose.

17       **1.8**     Except as expressly set forth herein, nothing in this Consent Judgment shall  
18 prejudice, waive, or impair any right, remedy, argument, or defense the Parties may have in any  
19 other or future legal proceeding unrelated to these proceedings.

20       **1.9**     The Effective Date of this Consent Judgment is the date on which it is entered as  
21 a Judgment by this Court.

22       **2.            JURISDICTION AND VENUE**

23       For purposes of this Consent Judgment and any further court action that may become  
24 necessary to enforce this Consent Judgment, the Parties stipulate that this Court has subject matter  
25 jurisdiction over the allegations of violations contained in the Complaint, personal jurisdiction  
26 over IMMUNOTEC as to the acts alleged in the Complaint, that venue is proper in Alameda  
27 County, and that this Court has jurisdiction to enter this Consent Judgment as a full and final  
28 resolution of all claims up through and including the Effective Date which were or could have

1 been asserted in this action based on the facts alleged in the Notice and Complaint.

2 **3. INJUNCTIVE RELIEF, REFORMULATION, TESTING AND**  
3 **WARNINGS**

4 **3.1** Beginning on the Effective Date, IMMUNOTEC shall be permanently enjoined  
5 from manufacturing for sale in the State of California, "Distributing into the State of  
6 California", or directly selling in the State of California, any Covered Product which exposes a  
7 person to a "Daily Lead Exposure Level" of more than 0.5 micrograms per day of lead when  
8 the maximum suggested dose is taken as directed on the Covered Product's label, unless it  
9 meets the warning requirements under Section 3.2.

10 **3.1.1** As used in this Consent Judgment, the term "Distributing into the State  
11 of California" shall mean to directly ship a Covered Product into California for sale in  
12 California or to sell a Covered Product to a distributor that IMMUNOTEC knows will sell the  
13 Covered Product in California.

14 **3.1.2** For purposes of this Consent Judgment, the "Daily Lead Exposure  
15 Level" shall be measured in micrograms, and shall be calculated using the following formula:  
16 micrograms of lead per gram of product, multiplied by grams of product per serving of the  
17 product (using the largest serving size appearing on the product label), multiplied by servings  
18 of the product per day (using the largest number of servings in a recommended dosage  
19 appearing on the product label), which equals micrograms of lead exposure per day.

20 **3.2 Clear and Reasonable Warnings**

21 If IMMUNOTEC is required to provide a warning pursuant to Section 3.1, the following  
22 warning must be utilized:

23 **WARNING: This product contains lead, a chemical known to the State of California**  
24 **to cause [cancer and] birth defects or other reproductive harm.**

25 IMMUNOTEC shall use the phrase "cancer and" in the warning only if the maximum daily dose  
26 recommended on the label contains more than 15 micrograms of lead as determined pursuant to  
27 the quality control methodology set forth in Section 3.4.

1 The warning shall be securely affixed to or printed upon the container or label of each  
2 Covered Product. In the alternative, for Covered Products sold over IMMUNOTEC's website,  
3 the warning shall appear on IMMUNOTEC's checkout page on its website for California  
4 consumers identifying any Covered Product, and also appear prior to completing checkout on  
5 IMMUNOTEC's website when a California delivery address is indicated for any purchase of any  
6 Covered Product.

7 The warning shall be at least the same size as the largest of any other health or safety  
8 warnings also appearing on its website or on the label or container of IMMUNOTEC's product  
9 packaging and the word "WARNING" shall be in all capital letters and in bold print. No other  
10 statements about Proposition 65 or lead may accompany the warning.

11 IMMUNOTEC must display the above warnings with such conspicuousness, as compared  
12 with other words, statements, or design of the label or container, as applicable, to render the  
13 warning likely to be read and understood by an ordinary individual under customary conditions of  
14 purchase or use of the product.

### 15 **3.3 Reformulated Covered Products**

16 A Reformulated Covered Product is one for which the Daily Lead Exposure Level when  
17 the maximum suggested dose is taken as directed on the Reformulated Covered Product's label,  
18 contains no more than 0.5 micrograms of lead per day as determined by the quality control  
19 methodology described in Section 3.4.

### 20 **3.4 Testing and Quality Control Methodology**

21 **3.4.1** Beginning within one year of the Effective Date, IMMUNOTEC shall  
22 arrange for lead testing of the Covered Products at least once a year for a minimum of five  
23 consecutive years by arranging for testing of five randomly selected samples of each of the  
24 Covered Products, in the form intended for sale to the end-user, which IMMUNOTEC intends  
25 to sell or is manufacturing for sale in California, directly selling to a consumer in California or  
26 "Distributing into California." The testing requirement does not apply to any of the Covered  
27 Products for which IMMUNOTEC has provided the warning specified in Section 3.2. If tests  
28 conducted pursuant to this Section demonstrate that no warning is required for a Covered

1 Product during each of five consecutive years, then the testing requirements of this Section will  
2 no longer be required as to that Covered Product. However, if during or after the five-year  
3 testing period, IMMUNOTEC changes ingredient suppliers for any of the Covered Products  
4 and/or reformulates any of the Covered Products, IMMUNOTEC shall test that Covered  
5 Product annually for at least four (4) consecutive years after such change is made.

6           **3.4.2** For purposes of measuring the "Daily Lead Exposure Level", the highest  
7 lead detection result of the five (5) randomly selected samples of the Covered Products will be  
8 controlling.

9           **3.4.3** All testing pursuant to this Consent Judgment shall be performed using a  
10 laboratory method that complies with the performance and quality control factors appropriate  
11 for the method used, including limit of detection, qualification, accuracy, and precision that  
12 meets the following criteria: Inductively Coupled Plasma-Mass Spectrometry ("ICP-MS")  
13 achieving a limit of quantification of less than or equal to 0.010 mg/kg or any other testing  
14 method subsequently agreed to in writing by the Parties.

15           **3.4.4** All testing pursuant to this Consent Judgment shall be performed by an  
16 independent third party laboratory certified by the California Environmental Laboratory  
17 Accreditation Program or an independent third-party laboratory that is registered with the  
18 United States Food & Drug Administration.

19           **3.4.5** Nothing in this Consent Judgment shall limit IMMUNOTEC's ability to  
20 conduct, or require that others conduct, additional testing of the Covered Products, including  
21 the raw materials used in their manufacture.

22           **3.4.6** Beginning on the Effective Date and continuing for a period of five  
23 years, IMMUNOTEC shall arrange for copies of all laboratory reports with results of testing  
24 for lead content under Section 3.4.1 to be automatically sent by the testing laboratory directly  
25 to ERC within ten days after completion of the testing. IMMUNOTEC shall retain all test  
26 results and documentation for a period of five years from the date of each test.

27       **4. SETTLEMENT PAYMENT**

28       **4.1** In full satisfaction of all potential civil penalties, payment in lieu of civil

1 penalties, attorney's fees, and costs, IMMUNOTEC shall make a total payment of \$95,000.00  
2 ("Total Settlement Amount") to ERC within 5 days of the Effective Date. IMMUNOTEC shall  
3 make this payment by wire transfer to ERC's escrow account, for which ERC will give  
4 IMMUNOTEC the necessary account information. The Total Settlement Amount shall be  
5 apportioned as follows:

6       **4.2**     \$31,988.00 shall be considered a civil penalty pursuant to California Health and  
7 Safety Code §25249.7(b)(1). ERC shall remit 75% (\$23,991.00) of the civil penalty to the  
8 Office of Environmental Health Hazard Assessment ("OEHHA") for deposit in the Safe  
9 Drinking Water and Toxic Enforcement Fund in accordance with California Health and Safety  
10 Code §25249.12(c). ERC will retain the remaining 25% (\$7,997.00) of the civil penalty.

11       **4.3**     \$1,455.99 shall be distributed to ERC as reimbursement to ERC for reasonable  
12 costs incurred in bringing this action.

13       **4.4**     \$31,988.60 shall be distributed to ERC in lieu of further civil penalties, for the  
14 day-to-day business activities such as (1) continued enforcement of Proposition 65, which  
15 includes work, analyzing, researching and testing consumer products that may contain  
16 Proposition 65 chemicals, focusing on the same or similar type of ingestible products that are  
17 the subject matter of the current action; (2) the continued monitoring of past consent judgments  
18 and settlements to ensure companies are in compliance with Proposition 65; and (3) giving a  
19 donation of \$1,600.00 to the As You Sow to address reducing toxic chemical exposures in  
20 California.

21       **4.5**     \$16,281.75 shall be distributed to Lozeau Drury LLP as reimbursement of  
22 ERC's attorney's fees, while \$13,285.66 shall be distributed to ERC for its in-house legal fees.

23       **5.           MODIFICATION OF CONSENT JUDGMENT**

24       **5.1**     This Consent Judgment may be modified only (i) by written stipulation of the  
25 Parties or pursuant to Section 5.4 and (ii) upon entry by the Court of a modified consent  
26 judgment.

27       **5.2**     If IMMUNOTEC seeks to modify this Consent Judgment under Section 5.1,  
28 then IMMUNOTEC must provide written notice to ERC of its intent ("Notice of Intent"). If

1 ERC seeks to meet and confer regarding the proposed modification in the Notice of Intent, then  
2 ERC must provide written notice to IMMUNOTEC within thirty days of receiving the Notice of  
3 Intent. If ERC notifies IMMUNOTEC in a timely manner of ERC's intent to meet and confer,  
4 then the Parties shall meet and confer in good faith as required in this Section. The Parties  
5 shall meet in person or via telephone within thirty (30) days of ERC's notification of its intent  
6 to meet and confer. Within thirty days of such meeting, if ERC disputes the proposed  
7 modification, ERC shall provide to IMMUNOTEC a written basis for its position. The Parties  
8 shall continue to meet and confer for an additional thirty (30) days in an effort to resolve any  
9 remaining disputes. Should it become necessary, the Parties may agree in writing to different  
10 deadlines for the meet-and-confer period.

11 **5.3** In the event that IMMUNOTEC initiates or otherwise requests a modification  
12 under Section 5.1, and the meet and confer process leads to a joint motion or application of the  
13 Consent Judgment, IMMUNOTEC shall reimburse ERC its costs and reasonable attorney's  
14 fees for the time spent in the meet-and-confer process and filing and arguing the motion or  
15 application.

16 **5.4** Where the meet-and-confer process does not lead to a joint motion or  
17 application in support of a modification of the Consent Judgment, then either Party may seek  
18 judicial relief on its own. In such a situation, the prevailing Party may seek to recover costs  
19 and reasonable attorney's fees. As used in the preceding sentence, the term "prevailing party"  
20 means a party who is successful in obtaining relief more favorable to it than the relief that the  
21 other party was amenable to providing during the Parties' good faith attempt to resolve the  
22 dispute that is the subject of the modification.

23 **6. RETENTION OF JURISDICTION, ENFORCEMENT OF CONSENT**  
24 **JUDGMENT**

25 **6.1** This Court shall retain jurisdiction of this matter to enforce, modify or terminate  
26 this Consent Judgment.

27 **6.2** If ERC alleges that any Covered Product fails to qualify as a Reformulated  
28 Covered Product (for which ERC alleges that no warning has been provided), then ERC shall

1 inform IMMUNOTEC in a reasonably prompt manner of its test results, including information  
2 sufficient to permit IMMUNOTEC to identify the Covered Products at issue. IMMUNOTEC  
3 shall, within thirty days following such notice, provide ERC with testing information, from an  
4 independent third-party laboratory meeting the requirements of Sections 3.4.1 and 3.4.2,  
5 demonstrating IMMUNOTEC's compliance with the Consent Judgment, if warranted. The  
6 Parties shall first attempt to resolve the matter prior to ERC taking any further legal action.

7 **7. APPLICATION OF CONSENT JUDGMENT**

8 This Consent Judgment may apply to, be binding upon, and benefit the Parties and their  
9 respective officers, directors, shareholders, employees, agents, parent companies, subsidiaries,  
10 divisions, affiliates, franchisees, licensees, customers (excluding private labelers), distributors,  
11 wholesalers, retailers, predecessors, successors, and assigns. This Consent Judgment shall have no  
12 application to Covered Products which are distributed or sold exclusively outside the State of  
13 California and which are not used by California consumers.

14 **8. BINDING EFFECT, CLAIMS COVERED AND RELEASED**

15 **8.1** This Consent Judgment is a full, final, and binding resolution between ERC, on  
16 behalf of itself and in the public interest, and IMMUNOTEC and its respective officers,  
17 directors, shareholders, employees, agents, parent companies, subsidiaries, divisions, affiliates,  
18 suppliers, franchisees, licensees, customers (not including private label customers of  
19 IMMUNOTEC), distributors, wholesalers, retailers, and all other upstream and downstream  
20 entities in the distribution chain of any Covered Product, and the predecessors, successors and  
21 assigns of any of them (collectively, "Released Parties"), from any and all claims, actions,  
22 causes of action, suits, demands, liabilities, damages, penalties, fees, costs and expenses  
23 asserted, or that could have been asserted from the handling, use, or consumption of the  
24 Covered Products, as to any alleged violation of Proposition 65 or its implementing regulations  
25 arising from the failure to provide Proposition 65 warnings on the Covered Products regarding  
26 lead up to and including the Effective Date.

27 **8.2** ERC on its own behalf only, on one hand, and IMMUNOTEC on its own behalf  
28 only, on the other, further waive and release any and all claims they may have against each

1 other for all actions or statements made or undertaken in the course of seeking or opposing  
2 enforcement of Proposition 65 in connection with the Notice or Complaint up through and  
3 including the Effective Date, provided, however, that nothing in Section 8 shall affect or limit  
4 any Party's right to seek to enforce the terms of this Consent Judgment.

5 **8.3** It is possible that other claims not known to the Parties arising out of the facts  
6 alleged in the Notice or the Complaint and relating to the Covered Products will develop or be  
7 discovered. ERC on behalf of itself only, on one hand, and IMMUNOTEC, on the other hand,  
8 acknowledge that this Consent Judgment is expressly intended to cover and include all such  
9 claims up through the Effective Date, including all rights of action therefore. ERC and  
10 IMMUNOTEC acknowledge that the claims released in Sections 8.1 and 8.2 above may  
11 include unknown claims, and nevertheless waive California Civil Code section 1542 as to any  
12 such unknown claims. California Civil Code section 1542 reads as follows:

13 A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE  
14 CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER  
15 FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF  
16 KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS  
17 OR HER SETTLEMENT WITH THE DEBTOR.

18 ERC on behalf of itself only, on the one hand, and IMMUNOTEC, on the other hand,  
19 acknowledge and understand the significance and consequences of this specific waiver of  
20 California Civil Code section 1542.

21 **8.4** Compliance with the terms of this Consent Judgment shall be deemed to  
22 constitute compliance with Proposition 65 by any releasee regarding alleged exposures to lead  
23 in the Covered Products as set forth in the Notice and the Complaint.

24 **8.5** Nothing in this Consent Judgment is intended to apply to any occupational or  
25 environmental exposures arising under Proposition 65, nor shall it apply to any of  
26 IMMUNOTEC's products other than the Covered Products.

## 27 **9. SEVERABILITY OF UNENFORCEABLE PROVISIONS**

28 In the event that any of the provisions of this Consent Judgment are held by a court to be  
unenforceable, the validity of the remaining enforceable provisions shall not be adversely affected.

1       **10.           GOVERNING LAW**

2           The terms and conditions of this Consent Judgment shall be governed by and construed in  
3 accordance with the laws of the State of California.

4       **11.           PROVISION OF NOTICE**

5           All notices required to be given to either Party to this Consent Judgment by the other shall  
6 be in writing and sent to the following agents listed below via first-class mail. Courtesy copies via  
7 email may also be sent.

8       **FOR ENVIRONMENTAL RESEARCH CENTER, INC.:**

9 Chris Heptinstall, Executive Director, Environmental Research Center  
10 3111 Camino Del Rio North, Suite 400  
11 San Diego, CA 92108  
12 Tel: (619) 500-3090  
13 Email: chris\_erc501c3@yahoo.com

14 With a copy to:

15 RICHARD T. DRURY  
16 RICHARD M. FRANCO  
17 LOZEAU | DRURY LLP  
18 410 12th Street, Suite 250  
19 Oakland, CA 94607  
20 Ph: 510-836-4200  
21 Fax: 510-836-4205  
22 Email: richard@lozeaudrury.com  
23       rick@lozeaudrury.com

24 **IMMUNOTEC, INC.,**  
25 **IMMUNOTEC RESEARCH, INC. and IMMUNOTEC RESEARCH LTD.**

26 David Pelletier  
27 Vice-President Regulatory Affairs, Quality Control & Product Development  
28 300 Joseph Carrier, Vaudreuil, QC, J7V 5V5

With a copy to:

29 MICHAEL B. FISHER  
30 BUCHALTER NEMER  
31 1000 Wiltshire Boulevard, #1500  
32 Los Angeles, CA 90017  
33 Telephone: (213) 891-0700  
34 Facsimile: (213) 896-0400  
35 Email: mbfisher@buchalter.com

1  
2       **12.           COURT APPROVAL**

3           **12.1**   Upon execution of this Consent Judgment by the Parties, ERC shall notice a  
4 Motion for Court Approval. The Parties shall use their best efforts to support entry of this  
5 Consent Judgment.

6           **12.2**   If the California Attorney General objects to any term in this Consent Judgment,  
7 the Parties shall use their best efforts to resolve the concern in a timely manner, and if possible  
8 prior to the hearing on the motion.

9           **12.3**   If this Stipulated Consent Judgment is not approved by the Court, it shall be  
10 void and have no force or effect.

11       **13.           EXECUTION AND COUNTERPARTS**

12           This Consent Judgment may be executed in counterparts, which taken together shall be  
13 deemed to constitute one document. A facsimile or .pdf signature shall be construed as valid as  
14 the original signature.

15       **14.           DRAFTING**

16           The terms of this Consent Judgment have been reviewed by the respective counsel for each  
17 Party prior to its signing, and each Party has had an opportunity to fully discuss the terms and  
18 conditions with legal counsel. The Parties agree that, in any subsequent interpretation and  
19 construction of this Consent Judgment, no inference, assumption, or presumption shall be drawn,  
20 and no provision of this Consent Judgment shall be construed against any Party, based on the fact  
21 that one of the Parties and/or one of the Parties' legal counsel prepared and/or drafted all or any  
22 portion of the Consent Judgment. It is conclusively presumed that all of the Parties participated  
23 equally in the preparation and drafting of this Consent Judgment.

24       **15.           GOOD FAITH ATTEMPT TO RESOLVE DISPUTES**

25           If a dispute arises with respect to either Party's compliance with the terms of this Consent  
26 Judgment entered by the Court, the Parties shall meet in person or by telephone and endeavor to  
27 resolve the dispute in an amicable manner. No action or motion may be filed in the absence of  
28 such a good faith attempt to resolve the dispute beforehand. In the event an action or motion is

1 filed, however, the prevailing party may seek to recover costs and reasonable attorney's fees. As  
2 used in the preceding sentence, the term "prevailing party" means a party who is successful in  
3 obtaining relief more favorable to it than the relief that the other party was amenable to providing  
4 during the Parties' good faith attempt to resolve the dispute that is the subject of such enforcement  
5 action.

6 **16. ENTIRE AGREEMENT, AUTHORIZATION**

7 **16.1** This Consent Judgment contains the sole and entire agreement and  
8 understanding of the Parties with respect to the entire subject matter herein, and any and all  
9 prior discussions, negotiations, commitments and understandings related hereto. No  
10 representations, oral or otherwise, express or implied, other than those contained herein have  
11 been made by any Party. No other agreements, oral or otherwise, unless specifically referred to  
12 herein, shall be deemed to exist or to bind any Party.

13 **16.2** Each signatory to this Consent Judgment certifies that he or she is fully  
14 authorized by the Party he or she represents to stipulate to this Consent Judgment. Except as  
15 explicitly provided herein, each Party shall bear its own fees and costs.

16 **17. PUBLICATION**

17 Each signatory to this Consent Judgment agrees that they shall refrain from publishing  
18 the existence or contents of this Consent Judgment. It is expressly understood that this Consent  
19 Judgment shall be filed with the Court and forwarded to the appropriate state agencies. Each  
20 signatory shall endeavor to limit the dissemination of information regarding this Consent  
21 Judgment to that which is strictly necessary to ensure entry of the Consent Judgment by the  
22 Court.

23 **18. REQUEST FOR FINDINGS, APPROVAL OF SETTLEMENT AND**  
24 **ENTRY OF CONSENT JUDGMENT**

25 This Consent Judgment has come before the Court upon the request of the Parties. The  
26 Parties request the Court to fully review this Consent Judgment and, being fully informed  
27 regarding the matters which are the subject of this action, to:

28 (1) Find that the terms and provisions of this Consent Judgment represent a fair and

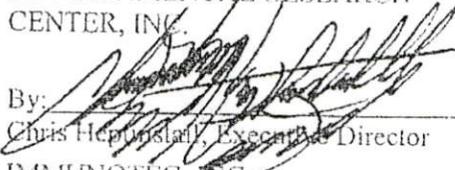
1 equitable settlement of all matters raised by the allegations of the Complaint, that the matter has  
2 been diligently prosecuted, and that the public interest is served by such settlement; and

3 (2) Make the findings pursuant to California Health and Safety Code section  
4 25249.7(f)(4), approve the Settlement, and approve this Consent Judgment.

5  
6 **IT IS SO STIPULATED:**

7 Dated: 6/21, 2016

ENVIRONMENTAL RESEARCH  
CENTER, INC.

8  
9 By:   
Chris Heppinstall, Executive Director

10 Dated: 6/30, 2016

IMMUNOTEC, INC.

11 Charles L. Orr  
12 By: Charles L. Orr  
13 Its: CEO

14 Dated: 7/4, 2016

IMMUNOTEC, RESEARCH, INC.

15 Charles L. Orr  
16 By: Charles L. Orr  
17 Its: President

18 Dated: 7/4, 2016

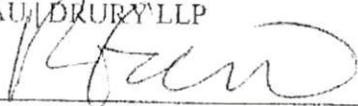
IMMUNOTEC, RESEARCH LTD.

19 Charles L. Orr  
20 By: Charles L. Orr  
21 Its: President

22 **APPROVED AS TO FORM:**

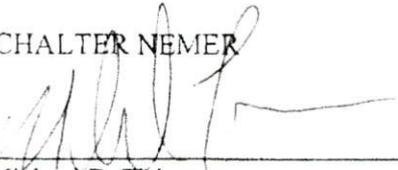
23 Dated: 6/21, 2016

LOZEAU DRURY LLP

24 By:   
25 Richard T. Drury  
26 Richard M. Franco  
27 Attorneys for Plaintiff Environmental  
28 Research Center, Inc.

1 Dated: 7/7, 2016

BUCHALTER NEMER

2  
3 By: 

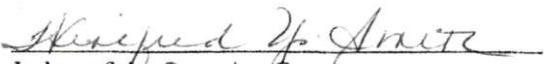
4 Michael B. Fisher  
5 Attorneys for Defendants Immunotec, Inc.,  
6 Immunotec Research, Inc. and Immunotec  
7 Research Ltd.

8  
9 **ORDER AND JUDGMENT**

10 Based upon the Parties' Stipulation, and good cause appearing, this Consent Judgment is  
11 approved and Judgment is hereby entered according to its terms.

12 IT IS SO ORDERED, ADJUDGED AND DECREED.

13 Dated: September 7, 2016

14   
15 Judge of the Superior Court