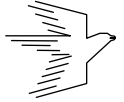




**CONSCI, Ltd**  
 1416 E Southmore Ave  
 Pasadena, TX 77502  
 800-240-3693  
 www.consci.com

**CONFIDENTIALITY & NON-DISCLOSURE  
 AGREEMENT**

*Merlin MicroScience*



Consolidated Sciences

THIS CONFIDENTIALITY AND NON-DISCLOSURE AGREEMENT  
 dated this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**BETWEEN:**

CONSCI, LTD. or its affiliate ORSAT, LLC. of 1416 E. Southmore, Pasadena, TX 77502 (the "Company")
OF THE FIRST PART
AND
(the "Employee")
OF THE SECOND PART

**WHEREAS:**

- A. The Employee is currently or may be employed with the Company. The employee is responsible for routine laboratory work including but not limited to analysis of routine samples, maintenance of instrumentation, shipping of customer cylinders and samples, and the inventory of laboratory parts and supplies. In addition to this responsibility or position (the "Employment"), this Agreement also covers any position or responsibility now or later held with the Company.
- B. The Employee will receive from the Company, or develop on the behalf of the Company, Confidential Information as a result of the Employment (the "Permitted Purpose").

**IN CONSIDERATION OF** and as a condition of the Company employing the Employee and the Company providing the Confidential Information to the Employee in addition to other valuable consideration, the receipt and sufficiency of which consideration is hereby acknowledged, the parties to this Agreement agree as follows:

**Confidential Information**

- 1. The Employee acknowledges in any position the Employee may hold, in and as a result of the Employee's employment by the Company, the Employee will, or may, be making use of, acquiring or adding to information about certain matters and things which are confidential to the Company and which information is the exclusive property of the Company, including, without limitation:
  - a. 'Confidential Information' means all data and information relating to the business and management of the Company, including proprietary and trade secret technology and accounting records to which access is obtained by the Employee, including Work Product, Production Processes, Other Proprietary Data, Business Operations, Computer Software, Computer Technology, Marketing and Development Operations, and Customers. Confidential Information will also include any information which has been disclosed by a third party to the Company and governed by a non-disclosure agreement entered into between the third party and the Company Confidential Information will not include information that:

- i. is generally known in the industry of the Company;
  - ii. is now or subsequently becomes generally available to the public through no wrongful act of the Employee;
  - iii. the Employee rightfully had in his possession prior to the disclosure to the Employee by the Company;
  - iv. is independently created by the Employee without direct or indirect use of the Confidential Information; or
  - v. the Employee rightfully obtains from a third party who has the right to transfer or disclose it.
- b. 'Work Product' means work product resulting from or related to work or projects performed or to be performed for the Company or for clients of the Company, of any type or form in any stage of actual or anticipated research and development;
  - c. 'Production Processes' means processes used in the creation, production and manufacturing of the Work Product, including but not limited to formulas, patterns, molds, models, methods, techniques, specifications, processes, procedures, equipment, devices, programs, and designs;
  - d. 'Other Proprietary Data' means information relating to the Company's proprietary rights prior to any public disclosure of such information, including but not limited to the nature of the proprietary rights, production data, technical and engineering data, technical concepts, test data and test results, simulation results, the status and details of research and development of products and services, and information regarding acquiring, protecting, enforcing and licensing proprietary rights (including patents, copyrights and trade secrets);
  - e. 'Business Operations' means internal personnel and financial information, vendor names and other vendor information (including vendor characteristics, services and agreements), purchasing and internal cost information, internal services and operational manuals, and the manner and methods of conducting the Company's business;
  - f. 'Computer Software' means all sets of statements, instructions or programs, whether in human readable or machine readable form, that are expressed, fixed, embodied or stored in any manner and that can be used directly or indirectly in a computer ('Computer Programs'); any report format, design or drawing created or produced by such Computer Programs; and all documentation, design specifications and charts, and operating procedures which support the Computer Programs;
  - g. 'Computer Technology' means all scientific and technical information or material pertaining to any machine, appliance or process, including specifications, proposals, models, designs, formulas, test results and reports, analyses, simulation results, tables of operating conditions, materials, components, industrial skills, operating and testing procedures, shop practices, know-how and show-how;
  - h. 'Marketing and Development Operations' means marketing and development plans, price and cost data, price and fee amounts, pricing and billing policies, quoting procedures, marketing techniques and methods of obtaining business, forecasts and forecast assumptions and volumes, and future plans and potential strategies of the Company which have been or are being discussed; and
  - i. 'Customers' means names of customers and their representatives, contracts and their contents and parties, customer services, data provided by customers and the type, quantity and specifications of products and services purchased, leased, licensed or received by clients of the Company.

## **Confidential Obligations**

2. Except as otherwise provided in this Agreement, the Confidential Information will remain the exclusive property of the Company; and will only be used by the Employee for the Permitted Purpose. The Employee will not use the Confidential Information for any purpose which might be directly or indirectly detrimental to the Company or any of its affiliates or subsidiaries.
3. The obligations to ensure and protect the confidentiality of the Confidential Information imposed on the Employee in this Agreement and any obligations to provide notice under this Agreement will survive the expiration or termination, as the case may be, of this Agreement and will continue for a period of five (5) years from the date of such expiration or termination.
4. The Employee may disclose any of the Confidential Information:
  - a. to such of its employees, agents, representatives and advisors that have a need to know for the Permitted Purpose provided that:
    - i. The Employee has informed such personnel of the confidential nature of the Confidential Information;
    - ii. such personnel agree to be legally bound to the same burdens of confidentiality, non-use and non-disclosure as the Employee;
    - iii. the Employee agrees to take all necessary steps to ensure that the terms of this Agreement are not violated by such personnel; and
    - iv. the Employee agrees to be responsible for and indemnify the Company for any breach of this Agreement by its personnel.
  - b. to a third party where the Company has consented in writing to such disclosure; and
  - c. to the extent required by law or by the request or requirement of any judicial, legislative, administrative or other governmental body.

## **Avoiding Conflict of Opportunities**

5. It is understood and agreed that any business opportunity relating to or similar to the Company's current or anticipated business opportunities coming to the attention of the Employee during the Employee's employment is an opportunity belonging to the Company. Accordingly, the Employee will advise the Company of the opportunity and cannot pursue the opportunity, directly or indirectly, without the written consent of the Company.
6. Without the written consent of the Company, the Employee further agrees not to:
  - a. solely or jointly with others undertake or join any planning for or organization of any business activity competitive with the current or anticipated business activities of the Company; and
  - b. directly or indirectly, engage or participate in any other business activities which the Company, in its reasonable discretion, determines to be in conflict with the best interests of the Company.

## **Non-Solicitation**

7. Any attempt on the part of the Employee to induce others to leave the Company's employ, or any effort by the Employee to interfere with the Company's relationship with its other employees and contractors would be harmful and damaging to the Company. The Employee agrees that during the term of the Employment and for a period of two (2) years after the end of term of the Employment, the Employee will not in any way, directly or indirectly:
  - a. induce or attempt to induce any employee or contractor of the Company to quit employment or retainer with the Company;

- b. otherwise interfere with or disrupt the Company's relationship with its employees and contractors;
- c. discuss employment opportunities or provide information about competitive employment to any of the Company's employees or contractors; or
- d. solicit, entice, or hire away any employee or contractor of the Company

This obligation will be limited to those that were employees or contractors of the Company when the Employee was employed by the Company

### **Non-Competition**

- 8. Other than through employment with a bona-fide independent party, or with the express written consent of the Company, which will not be unreasonably withheld, the Employee will not, during the continuance of this Agreement or within two (2) years after the termination or expiration, as the case may be, of this Agreement, be directly or indirectly involved with a business which is in direct competition with the particular business line of the Company that the Employee was working during any time in the last year of employment with the Company
- 9. For a period of two (2) years from the date of termination or expiration, as the case may be, of the Employment, the Employee will not divert or attempt to divert from the Company any business the Company had enjoyed, solicited, or attempted to solicit, from its customers, prior to termination or expiration, as the case may be, of the Employment.

### **Ownership and Title**

- 10. The Employee acknowledges and agrees that all rights, title and interest in any Confidential Information will remain the exclusive property of the Company. Accordingly, the Employee specifically agrees and acknowledges that the Employee will have no interest in the Confidential Information, including, without limitation, no interest in know-how, copyright, trade-marks or trade names, notwithstanding the fact that the Employee may have created or contributed to the creation of the same.
- 11. The Employee does hereby waive any moral rights that the Employee may have with respect to the Confidential Information.
- 12. This Agreement will not apply in respect of any intellectual property, process, design, development, creation, research, invention, know-how, trade names, trade-marks or copyrights for which:
  - a. no equipment, supplies, facility or Confidential Information of the Company was used,
  - b. was developed entirely on the Employee's own time, and
  - c. does not:
    - i. relate to the business of the Company,
    - ii. relate to the Employee's actual or demonstrably anticipated processes, research or development or,
    - iii. result from any work performed by the Employee for the Company.
- 13. The Employee agrees to immediately disclose to the Company all Confidential Information developed in whole or in part by the Employee during the term of the Employee's employment with the Company and to assign to the Company any right, title or interest the Employee may have in the Confidential Information. The Employee agrees to execute any instruments and to do all other things reasonably requested by the Company (both during and after the Employee's employment with the Company) in order to vest more fully in the Company all ownership rights in those items transferred by the Employee to the Company.

## **Remedies**

14. The Employee agrees and acknowledges that the Confidential Information is of a proprietary and confidential nature and that any disclosure of the Confidential Information to a third party in breach of this Agreement cannot be reasonably or adequately compensated for in money damages and would cause irreparable injury to the Company. Accordingly, the Employee agrees that the Company is entitled to, in addition to all other rights and remedies available to it at law or in equity, to an injunction restraining the Employee and any agents of the Employee, from directly or indirectly committing or engaging in any act restricted by this Agreement in relation to the Confidential Information.

## **Return of Confidential Information**

15. The Employee agrees that, upon request of the Company, or in the event that the Employee ceases to require use of the Confidential Information, or upon expiration or termination of This Agreement, as the case may be, the Employment, the Employee will turn over to the Company all documents, disks or other computer media, or other material in the possession or control of the Employee that:

- a. may contain or be derived from ideas, concepts, creations, or trade secrets and other proprietary and Confidential Information as defined in this Agreement; or
- b. connected with or derived from the Employee's services to the Company.

## **Notices**

16. In the event that the Employee is required in a civil, criminal or regulatory proceeding to disclose any part of the Confidential Information, the Employee will give to the Company prompt written notice of such request so the Company may seek an appropriate remedy or alternatively to waive the Employee's compliance with the provisions of this Agreement in regards to the request.

17. If the Employee loses or makes unauthorized disclosure of any of the Confidential Information, the Employee will immediately notify the Company and take all reasonable steps necessary to retrieve the lost or improperly disclosed Confidential Information.

18. Any notices or delivery required herein will be deemed completed when hand-delivered, delivered by agent, or seven (7) days after being placed in the post, postage prepaid, to the parties at the addresses contained in this Agreement or as the parties may later designate in writing.

19. The address for any notice to be delivered to any of the parties to this Agreement is as stated at the beginning of this Agreement.

20. In providing the Confidential Information, the Company makes no representations, either expressly or impliedly, as to its adequacy, sufficiency, completeness, correctness or its lack of defect of any kind, including any patent or trademark infringement that may result from the use of such information.

## **Termination**

21. This Agreement will automatically terminate on the date that the Employee's employment with the Company terminates or expires, as the case may be.

## **Assignment**

22. Except where a party has changed its corporate name or merged with another corporation, this Agreement may not be assigned or otherwise transferred by either party in whole or part without the prior written consent of the other party to this Agreement.

**Amendments**

23. This Agreement may only be amended or modified by a written instrument executed by both the Company and the Employee.

**Governing Law**

24. This Agreement will be construed in accordance with and governed by the laws of the State of Texas.

**General Provisions**

25. Headings are inserted for the convenience of the parties only and are not to be considered when interpreting this Agreement. Words in the singular mean and include the plural and vice versa. Words in the masculine mean and include the feminine and vice versa.

26. The clauses, paragraphs, and subparagraphs contained in this Agreement are intended to be read and construed independently of each other. If any part of this Agreement is held to be invalid, this invalidity will not affect the operation of any other part of this Agreement.

27. The Employee is liable for all cost, expenses and expenditures including, and without limitation, the complete legal costs incurred by the Company in enforcing this Agreement as a result of any default of this Agreement by the Employee.

28. The Company and the Employee acknowledge that this Agreement is reasonable, valid and enforceable. However, if a court of competent jurisdiction finds any of the provisions of this Agreement to be too broad to be enforceable, it is the parties' intent that such provision be reduced in scope by the court only to the extent deemed necessary by that court to render the provision reasonable and enforceable, bearing in mind that it is the Employee's intention to give the Company the broadest possible protection against disclosure of the Confidential Information.

29. No failure or delay by the Company in exercising any power, right or privilege provided in this Agreement will operate as a waiver, nor will any single or partial exercise of such rights, powers or privileges preclude any further exercise of them or the exercise of any other right, power or privilege provided in this Agreement.

30. This Agreement will inure to the benefit of and be binding upon the respective heirs, executors, administrators, successors and assigns, as the case may be, of the Company and the Employee.

31. This Agreement may be executed in counterparts.

32. Time is of the essence in this Agreement.

33. This Agreement constitutes the entire agreement between the parties and there are no further items or provisions, either oral or otherwise.

**IN WITNESS WHEREOF** the Employee has duly signed under hand and seal and the Company has duly affixed its signature by a duly authorized officer under seal on this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
The Employee

\_\_\_\_\_  
Company Representative