

Bi-Directional Non-Disclosure Agreement

This Agreement is made by and between **PERRY proTECH** and _____. In the course of evaluation of and/or conducting of a business relationship between the parties, it is anticipated that either party (as a disclosing party) may disclose to the other party (as a receiving party) certain confidential, proprietary information and/or experimental materials related to disclosing party's business and/or products or other confidential information. For purposes of the Agreement, "INFORMATION" shall mean such information and/or materials clearly identified as confidential or proprietary and disclosed to the receiving party in writing, or if disclosed orally or visually, is identified and described in writing as confidential or proprietary by the disclosing party within thirty (30) days of the oral or visual disclosure.

The parties agree that the INFORMATION which is disclosed to the receiving party by or on behalf of the disclosing party for the purposes of this Agreement shall be subject to the following terms and conditions to which the parties hereto, intending to be legally bound, covenant and agree:

1. The receiving party will not use or copy all or any portion of INFORMATION disclosed to it by the disclosing party for any purpose other than for the evaluation and or conducting thereof of the anticipated business without receiving express written permission from the disclosing party.
2. The receiving party covenants that it, its directors, its officers, its employees, and those of its former employees who gained access as a result of their employment with the receiving party will maintain in strict confidence and will refrain from making any unauthorized use of INFORMATION which is disclosed to the receiving party by or on behalf of the disclosing party for the purposes of this Agreement. The receiving party will take at least the same precautions as it takes with its own confidential information and materials to ensure that all INFORMATION which is disclosed to the receiving party by or on behalf of the disclosing party under this Agreement is maintained in confidence. The receiving party may disclose INFORMATION to those of its employees who have a need to know in order to accomplish the purposes of this Agreement.
3. The receiving party will not alter or delete any proprietary legends or marking on documentation furnished to the receiving party and will immediately return, upon the request of the disclosing party, all copies of such documentation containing INFORMATION, regardless of whether such documentation was furnished to the receiving party by the disclosing party or was made by the disclosing party.
4. Nothing in this Agreement shall prevent either party from using or disclosing any information:
 - a) which at the time of disclosure is in public domain;
 - b) which after disclosure hereunder is published or otherwise becomes part of the public domain through no fault of the receiving party but only after it is published or otherwise becomes part of the public domain;
 - c) which the receiving party can show was already independently developed by and in the possession of the receiving party at the time of the disclosure hereunder; or

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- d) which before or after disclosure hereunder, is lawfully acquired by the receiving party from a third party who, insofar as the receiving party is aware, has no obligation directly or indirectly to the disclosing party with respect thereto, in accordance with the terms and conditions, if any, imposed by such third party on the receiving party as to such information, but only after such acquisition from such third party.

5. For purposes of Paragraph 4:

- a) Information which relates to specific facts or specific data shall not be deemed either generally available to the public or in the possession of the receiving party merely because such information may be contained within broad or generic disclosures; and
- b) Information which relates to specific combinations of facts or data shall not be deemed either generally available to the public or in the possession of the receiving party merely because the individual facts or data are found in separate disclosures.

This Agreement and Recipient's duty to hold Discloser's trade secrets in confidence shall remain in effect until the above-described trade secrets are no longer trade secrets or until Discloser sends Recipient written notice releasing Recipient from this Agreement, whichever occurs first.

- 6. In case of a breach or default by either party of the provisions of this Agreement, the non-breaching or non-defaulting party can pursue an action at law for damages resulting from said breach or default and may also seek redress in equity including temporary and permanent injunctive relief to restrain any further breach or default.
- 7. If any legal action arises relating to this Agreement, the prevailing party shall be entitled to recover all court costs, expenses and reasonable attorney fees.
- 8. Discloser warrants that it has the right to make the disclosures under this Agreement. NO OTHER WARRANTIES ARE MADE BY DISCLOSER UNDER THIS AGREEMENT. ANY INFORMATION DISCLOSED UNDER THIS AGREEMENT IS PROVIDED "AS IS."
- 9. No license under a patent or copyright owned or controlled by either party is granted herein by implication or otherwise.
- 10. This Agreement does not create any agency or partnership relationship between the parties.
- 11. This Agreement shall terminate upon written notice or two (2) years from the effective date hereof. Termination of this Agreement for any reason shall not terminate any obligation of protection or non-disclosure of Confidential Information hereunder or otherwise available under law. Upon termination of this Agreement or sooner upon request of the Disclosing Party, the Receiving Party shall destroy, or return to the Disclosing Party (within 30 days) all Confidential Information received from the Disclosing Party during the term hereof, including all copies and excerpts therefrom, regardless of the media in which the Confidential information has been retained. Upon the request of the Disclosing Party, the Receiving Party shall cause one of its officers or principals to certify in writing that: the Receiving Party has complied with the terms of this section.
- 12. All additions or modifications to this Agreement must be made in writing and must be signed by both parties to be effective.
- 13. This agreement shall be construed, and any claim or controversy arising with respect thereto shall be determined, in accordance with the laws of the State of Ohio, Indiana and Michigan.

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IN WITNESS WHEREOF, the parties have signed this Agreement to be effective as of this _____ day
of _____, _____.

Name or Company Name

Address

City, State Zip

Name (Printed)

Agreed by (Signature)

Title

PERRY proTECH

Name or Company Name

545 W. Market St.

Address

Lima, Oh 45801

City, State Zip

Name (Printed)

Agreed by (Signature)

Title

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