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Mutual Confidential Information Exchange Agreement

THIS AGREEMENT is made by and between

Legal Entity Name

Address, City, State ZIP Country, ("PARTICIPANT")

and

ITT Enidine Inc.

7 Centre Drive, Orchard Park, New York 14127 USA,

ITT Aerospace Controls, LLC

(and its subsidiaries **Industrial Tube Company, LLC, Electrofilm Manufacturing Company, LLC, and AcousticFab Inc.**)

28150 Industry Drive, Valencia, CA 91355 USA, (collectively "ITT")

(the "Parties").

Commencement Date: [Commencement Date](#) **Expiration Date:** [Expiration Date](#)

Unless otherwise specified hereunder, ITT and PARTICIPANT shall include their respective Subsidiaries as hereinafter defined by Section 6.0. This Agreement is necessary to permit, for a limited period of time, PARTICIPANT to disclose to ITT and ITT to disclose to PARTICIPANT, information considered to be confidential to the disclosing Party. The purpose of the exchange of such information is to: [Purpose](#)

The parties' representatives for disclosing and receiving confidential information are:

ITT: [ITT Point of Contact Name\(s\)](#)

PARTICIPANT: [Participant Point of Contact Name\(s\)](#)

1.0 CONFIDENTIAL INFORMATION

1.1 "ITT Confidential Information" shall mean all information or items identified by ITT as confidential and disclosed by ITT to PARTICIPANT relating to ITT's past, present and future research, development, and business activities including, but not limited to: [ITT Types of Confidential Information](#)

1.2 "PARTICIPANT Confidential Information" shall mean all information or items identified by PARTICIPANT as confidential and disclosed by PARTICIPANT to ITT, relating to PARTICIPANT's past, present and future research, development, and business activities including, but not limited to: [Participant Types of Confidential Information](#)

2.0 CONFIDENTIAL INFORMATION EXCHANGE

2.1 Confidential Information may be disclosed by one Party to the other during the term of this Agreement. Confidential Information may be conveyed by the parties in visual, written, oral, printed, or machine-readable form. All disclosures of information by one Party to the other will be deemed to be confidential at the time of disclosure:

(a) when Confidential Information is disclosed in written form and accepted, the writing must contain an appropriate legend, such as "Confidential" or "Proprietary". For electronic data it shall be sufficient if the Email, CD-cover, etc. indicate the confidential nature of the data.

(b) when information is disclosed in oral form by the disclosing Party and accepted by the receiving Party, the oral information must be reduced to a writing and delivered in written form to the receiving Party within 30 days after the date of the disclosure or the information will not be Confidential Information.

2.2 **As far as the Confidential Information is provided as sample or 3D-CAD-data, their use for reverse engineering is always prohibited.** As far as those 3D-Data are to be provided to a third party embedded in construction data of the receiving Party this should be permitted if an Agreement corresponding to this one is in place with said third party.

2.3 Upon the request of either Party, the other Party will, at its own expense, immediately return or confirm the destruction of all Confidential Information, except that (i) each Party's legal counsel may retain one copy of the Confidential Information for purposes of documenting what

information was disclosed to it and (ii) any electronic archive copies created as a product of receiving Parties routine computer server backup operations, disaster recovery or business continuity are excluded from this requirement, in such case the obligations hereunder shall survive until such copies are destroyed.

3.0 CONFIDENTIALITY OBLIGATIONS

3.1 Subject to the provisions of Sections 4.0 and 5.0, for a period of five (5) years measured from the date of termination or, if the Agreement is not terminated, the date of expiration the receiving Party agrees to use the same care and discretion to avoid disclosure, publication, or dissemination of disclosed and accepted Confidential Information as the receiving Party employs with similar information of its own which it does not desire to have published, disclosed, or disseminated, but in no event less than reasonable care. The receiving Party agrees to use received Confidential Information only for the purpose specified in the preamble above.

3.2 The receiving Party may disclose the disclosing Party's Confidential Information to its employees and employees of its parent and Subsidiary companies with a business need-to-know; and/or only with the disclosing Party's prior consent to third parties such as consultants, agents, and affiliates. Before disclosure to any above employees and/or third parties, the receiving Party shall have a written agreement with such employee and/or third party sufficient to require that the employee and/or third party will treat Confidential Information in accordance with this Agreement.

4.0 PERMISSIBLE DISCLOSURE

4.1 Disclosure of Confidential Information will not be precluded if such disclosure is:

(a) in response to a valid order of a court or governmental body of the United States or any political subdivision thereof; provided, however, that the Party being requested to disclose Confidential Information will first have made a reasonable effort to obtain a protective order requiring that the Confidential Information so disclosed be used only for the purpose for which the order was issued;

(b) otherwise required by law; or

(c) necessary to establish the receiving Party's rights under this Agreement.

4.2 In the event the disclosing Party grants its written authorization for the receiving Party to disclose Confidential Information to the U.S. Government, the receiving Party shall ensure that the Confidential Information is disclosed pursuant to and bearing the proposal legends set forth in FAR 52.215-1 or 15.609 or the Limited or Restricted Rights legends set forth in DFARS 252.227-7013 or DFARS 252.227-7014 for contractually deliverable data or software, as appropriate, or their equivalent or successor clauses.

5.0 NON-CONFIDENTIAL INFORMATION

Notwithstanding any other provision of this Agreement, the confidentiality obligations specified in Section 3.0 will not apply to any received Confidential Information which:

(a) is already in the possession of the receiving Party or any Subsidiary without obligation of confidence, prior to receipt from the disclosing Party;

(b) is independently developed by an agent or employee of the receiving Party without benefit of the Confidential Information;

(c) is or becomes publicly available without breach of this Agreement;

(d) is rightfully received by the receiving Party or any Subsidiary of that Party from a third party without an obligation of confidence to the disclosing Party;

(e) is released for disclosure by one Party with the other Party's written consent.

6.0 SUBSIDIARY

"Subsidiary" shall mean a corporation, company or other entity, (a) fifty percent (50%) or more of whose outstanding shares or securities (representing the right to vote for the election of directors or other managing authority) are, or (b) which does not have outstanding shares or securities, as may be the case in a partnership, joint venture or unincorporated



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association, but fifty percent (50%) or more of whose ownership interest representing the right to make the decisions for such corporation, company or other entity is, now or hereafter, owned or controlled, directly or indirectly, by a Party hereto, but such corporation, company or other entity shall be deemed to be a Subsidiary only so long as such ownership or control exists.

7.0 TERM OF AGREEMENT

The term of this Agreement will begin on the Commencement Date and will expire on the Expiration Date, unless terminated earlier by either Party. Either Party may terminate this Agreement prior to the Expiration Date with or without cause for any reason by giving at least fifteen (15) days prior written notice to the other Party.

8.0 OTHER INTELLECTUAL PROPERTY RIGHTS

No license or immunity is granted by this Agreement by either Party to the other, either directly or by implication, estoppel, or otherwise, under any patents, copyrights, trademarks, or mask works, or any trade secrets or know-how. The disclosure of information hereunder will not constitute any representation, warranty, assurance or guarantee, by either Party to the other, with respect to the infringement, misappropriation or violation of any of the intellectual property rights of third parties.

9.0 RELATION WITH OTHER AGREEMENTS/DISCLAIMERS

9.1 This Agreement will be the complete statement of the rights and obligations of the parties hereto with respect to Confidential Information disclosed or received, solely under this Agreement. This Agreement may be modified only by written amendments signed by authorized representatives of ITT and PARTICIPANT.

9.2 Each Party provides information on an "AS IS" basis.

10.0 GENERAL PROVISIONS

10.1 Each Party agrees that this Agreement will not restrict the right of either Party to enter into agreements with other Parties for the same or similar efforts, or to make, have made, use, sell, buy, develop, market, or otherwise transfer any technology, products or services now or in the future. Each Party agrees that this Agreement will not restrict the right of either Party to assign any of its employees, consultants or other representatives to any design or development project in the future, provided that the Party complies with its obligations under this Agreement.

10.2 Unless required by law, each Party agrees not to disclose (i) that discussions have been held by and between the Parties and (ii) the existence, the terms, conditions or subject matter of this Agreement to third parties without the prior written consent of the other Party.

10.3 In performing their respective obligations under this Agreement, the Parties will comply with United States export control and asset control laws, regulations, and orders, as they may be amended from time to time, applicable to the export or re-export of goods or services, including software, processes, or technical data ("Items"). Such regulations include without limitation the Export Administration Regulations ("EAR"), International Traffic in Arms Regulations ("ITAR"), and regulations and orders administered by the Treasury Department's Office of Foreign Assets Control (collectively, "Export Control Laws").

The Party conducting an export or re-export, as defined in such laws and regulations shall be responsible for obtaining the required authorizations. Each Party shall reasonably cooperate with, and exercise reasonable efforts to support, the Party making the export or re-export in obtaining any necessary licenses or authorizations required to perform its obligations under this Agreement.

10.4 The Parties do not intend that any agency, partnership or other relationship be created between them by this Agreement.

10.5 All rights and obligations which by their nature survive the expiration or termination of this Agreement will remain in effect beyond expiration or termination.

10.6 Nothing contained in this Agreement will be construed as conferring any rights to use in advertising, publicity or other marketing activities, any name, trade name, trademark, acronym or other designation of

the other Party, including any contraction, abbreviation, or simulation of any of the foregoing.

10.7 This Agreement shall be construed, and legal relations between PARTICIPANT and ITT shall be determined in accordance with the laws of the United States of America and, specifically, the State of New York, as if said Agreement were executed in, and fully performed in the State of New York.

The Parties acknowledge and agree that the unauthorized disclosure of the disclosing Party's Confidential Information by the receiving Party may cause irreparable harm to the disclosing Party, that money damages are insufficient to remedy such harm, and therefore the Parties stipulate to the entry of injunctive relief to prevent the disclosure or further dissemination of Confidential Information in the event that the receiving Party makes or threatens an unauthorized disclosure of the disclosing Party's Confidential Information. Such injunctive relief may be in addition to all other remedies, including money damages, available to the disclosing Party at law or in equity.

10.8 Any failure of either Party to require strict performance by the other Party, or any waiver or failure to act by either Party in the event of breach or default of any section or subsection of this Agreement, shall not be construed as a consent to, or waiver of, any other breach of the same or of any other section or subsection.

10.9 If any section or subsection of this Agreement is either found by competent authority to be invalid, illegal or unenforceable in any respect for any reason, the validity, legality and enforceability of any such section or subsection in every other respect and the remainder of this Agreement shall continue in effect so long as it still expresses the intent of the parties. If the intent of the Parties cannot be preserved, this Agreement shall be either renegotiated or terminated.

10.10 It is understood by the parties hereto that the terms and conditions of this Agreement shall not be interpreted as requiring either Party to (i) disclose any information, confidential or otherwise, to the other Party or (ii) enter into any future contractual relationships.

10.11 Neither Party may assign its rights or delegate its duties or obligations under this Agreement without prior written consent of the other Party. Any attempt to do so is void.

10.12 The Parties agree that this Agreement is the complete and exclusive statement of the agreement between the Parties relating to the subject matter of the Agreement. This statement of the agreement supersedes all proposals or other prior agreements, oral or written, and all other communications between the parties.

THE PARTIES ACKNOWLEDGE THAT EACH HAS READ THIS AGREEMENT, UNDERSTANDS IT, AND AGREES TO BE BOUND BY ITS TERMS AND CONDITIONS.

AGREED TO:

ITT:

By: _____

Name/Title: _____

Date: _____

PARTICIPANT:

By: _____

Name/Title: _____

Date: _____