



1933, check the following box. [ ]

If this Form is filed to register additional securities for an offering pursuant to Rule 462(b) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ] \_\_\_\_\_

If this Form is a post-effective amendment filed pursuant to Rule 462(c) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ] \_\_\_\_\_

If this Form is a post-effective amendment filed pursuant to Rule 462(d) under the Securities Act, check the following box and list the Securities Act registration statement number of the earlier effective registration statement for the same offering. [ ] \_\_\_\_\_

If delivery of the prospectus is expected to be made pursuant to Rule 434, please check the following box. [ ]

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THE REGISTRANT HEREBY AMENDS THIS REGISTRATION STATEMENT ON SUCH DATE OR DATES AS MAY BE NECESSARY TO DELAY ITS EFFECTIVE DATE UNTIL THE REGISTRANT SHALL FILE A FURTHER AMENDMENT WHICH SPECIFICALLY STATES THAT THIS REGISTRATION STATEMENT SHALL THEREAFTER BECOME EFFECTIVE IN ACCORDANCE WITH SECTION 8(a) OF THE SECURITIES ACT OF 1933 OR UNTIL THE REGISTRATION STATEMENT SHALL BECOME EFFECTIVE ON SUCH DATE AS THE SEC, ACTING PURSUANT TO SECTION 8(a), MAY DETERMINE.

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PART II

INFORMATION NOT REQUIRED IN PROSPECTUS

ITEM 13. OTHER EXPENSES OF ISSUANCE AND DISTRIBUTION

The following table sets forth the estimated expenses payable by us in connection with the offering (excluding underwriting discounts and commissions):

<TABLE>  
<CAPTION>

NATURE OF EXPENSE -----	AMOUNT -----
<S>	<C>
SEC Registration Fee.....	\$ 30,360
NASD Filing Fee.....	12,000
Nasdaq National Market Listing Fee.....	
Accounting Fees and Expenses.....	
Legal Fees and Expenses.....	
Printing Expenses.....	
Blue Sky Qualification Fees and Expenses.....	
Transfer Agent's Fee.....	
Miscellaneous.....	
	-----
Total.....	\$ =====

</TABLE>

The amounts set forth above, except for the Securities and Exchange Commission and National Association of Securities Dealers, Inc. fees, are in each case estimated.

ITEM 14. INDEMNIFICATION OF DIRECTORS AND OFFICERS

Section 145 of the Delaware General Corporation Law allows for the indemnification of officers, directors and any corporate agents in terms sufficiently broad to indemnify such persons under certain circumstances for liabilities (including reimbursement for expenses incurred) arising under the Securities Act. Our certificate of incorporation and our bylaws provide for indemnification of our directors, officers, employees and other agents to the extent permitted by the Delaware General Corporation Law. We have also entered into agreements with our directors and executive officers that require Capstone

among other things to indemnify them against certain liabilities that may arise by reason of their status or service as directors and officers liability insurance, which provides coverage against certain liabilities including liabilities under the Securities Act.

**ITEM 15. RECENT SALES OF UNREGISTERED SECURITIES**

**(a) Issuances of Shares of Preferred Stock and Preferred Stock Warrants**

On January 17, 1997, Capstone issued and sold 3,125,000 shares of its Series D Preferred Stock to eighteen accredited investors for an aggregate purchase price equal to \$12,500,000. This issuance was deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Regulation D promulgated thereunder as a sale by an issuer not involving a public offering.

On August 22, 1997 and November 21, 1997, Capstone issued and sold 5,865,814 and 4,587,331 shares of its Series E Preferred Stock, respectively to seventy-four accredited investors for an aggregate purchase price equal to \$63,979,000. This issuance was deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Regulation D promulgated thereunder as a sale by an issuer not involving a public offering.

On May 31, 1999 and September 2, 1999, Capstone issued and sold convertible promissory notes in the aggregate principal amount of \$22,190,992 that were converted into 11,095,496 shares of Series F preferred stock to sixty-six accredited investors. This issuance was deemed to be exempt

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from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Regulation D promulgated thereunder as a sale by an issuer not involving a public offering.

On February 24, 2000 Capstone issued and sold 35,683,979 shares of its Series G Preferred Stock to 140 accredited investors for an aggregate purchase price equal to \$137,500,000. This issuance was deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Regulation D promulgated thereunder as a sale by an issuer not involving a public offering.

**(b) Issuances of Common Stock and Common Stock Warrants**

Between September 14, 1988 and March 1, 2000, Capstone issued 5,884,431 shares of its common stock, of which 1,567,022 shares were issued upon exercise of warrants and 2,244,831 shares were issued upon exercise of stock options. Capstone has remaining issued and unexercised warrants exercisable for 15,616,488 shares of its common stock. This amount includes warrants exercisable for 275,000 shares of common stock to two accredited investors as well as Capstone's commitment to issue warrants exercisable for 1,132,628 shares of common stock in connection with the Series G offering. Certain warrants were issued in connection with the Bridge Notes convertible into Series F Preferred Stock to sixty-one accredited investors. The issuance was deemed to be exempt from registration under the Securities Act in reliance on Section 4(2) of the Securities Act or Regulation D promulgated thereunder as a sale by an issuer not involving a public offering.

**(c) Issuances of Options to Employees, Directors and Consultants.**

Between September 14, 1988 and March 1, 2000, Capstone issued options exercisable for 10,795,286 shares (net of cancellations) of its common stock pursuant to Capstone's 1993 Incentive Stock Option Plan to approximately 120 individuals. Of this amount as of February 29, 2000, 2,244,831 options had been executed, 2,517,379 options are issued and exercisable, and 6,033,076 options are issued and require further vesting before they are exercisable. Of the issued shares of the Series C Preferred Stock, 35,000 shares were issued pursuant to employment agreements and 18,407 shares were issued for consulting services rendered. Of the shares of Series E Preferred Stock issued, 45,500 shares were issued through stock option agreements and 164,340 shares were issued for services rendered and through other arrangements. These grants were deemed to be exempt from registration under the Securities Act in reliance on Rule 701 promulgated under Section 3(b) of the Securities Act as a transaction to compensatory benefit plans and contracts relating to compensation as provided under Rule 701. The recipients of securities in each of the foregoing represented their intentions to acquire the securities for investment only and

not with a view to or for sale in connection with any distribution thereof and appropriate legends were affixed to the instruments representing such securities issued in such transaction.

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ITEM 16. EXHIBITS AND FINANCIAL STATEMENT SCHEDULES

<TABLE>		
<CAPTION>		
EXHIBIT NUMBER	DESCRIPTION	PAGE NO.
-----	-----	-----
<S>	<C>	<C>
1.1*	Form of Underwriting Agreement.....	
3.1#	Articles of Incorporation of Capstone Turbine.....	
3.2*	Form of Amended and Restated Certificate of Incorporation of Capstone Turbine.....	
3.3#	By-laws of Capstone Turbine.....	
3.4*	Amended and Restated By-laws of Capstone Turbine.....	
4.1*	Specimen certificate for shares of common stock, \$.001 par value, of Capstone Turbine.....	
5.1*	Opinion of Latham & Watkins as to the legality of the securities being offered.....	
9.1#	Investor Rights Agreement.....	
10.1+	Solar Alliance and License Agreements.....	
10.2#	Lease between registrant and Northpark Industrial -- Leahy Division LLC, dated December 1, 1999, for leased premises at 21211 Nordhoff Street, Chatsworth, California.....	
10.3#	1993 Incentive Stock Option Plan.....	
16.1#	Letter from Ernst & Young LLP regarding change in independent auditors.....	
23.1#	Consent of Deloitte & Touche LLP.....	
23.2#	Consent of Ernst & Young LLP.....	
23.3#	Consent of Latham & Watkins (included in exhibit 5.1).....	
24.1#	Powers of Attorney (included on signature page).....	
27.1#	Financial Data Schedule.....	

</TABLE>

\* To be filed by amendment

+ Filed herewith; portions of this exhibit have been omitted pursuant to a request for confidential treatment.

# Previously filed

(b) Financial Statement Schedules

<TABLE>		
<S>		<C>
(1)	Independent Auditors' Report of Deloitte & Touche LLP...	S-1
(2)	Independent Auditors' Report of Ernst & Young LLP.....	S-2
(3)	Schedule II -- Valuation and Qualifying Accounts.....	S-3

</TABLE>

ITEM 17. UNDERTAKINGS

The undersigned registrant hereby undertakes to provide to the underwriters at the closing specified in the Underwriting Agreement certificates in such denominations and registered in such names as required by the underwriters to permit prompt delivery to each purchaser.

Insofar as indemnification for liabilities arising under the Securities Act of 1933 may be permitted to directors, officers and controlling persons of the registrant pursuant to the foregoing provisions, or otherwise, the registrant has been advised that in the opinion of the Securities and Exchange Commission such indemnification is against public policy as expressed in the Act and is, therefore, unenforceable. In the event that a claim for indemnification against such liabilities (other than the payment by the registrant of expenses incurred

or paid by a director, officer or controlling person of the registrant in the successful defense of any action, suit or proceeding) is asserted by such director, officer or controlling person in connection with the securities being registered, the registrant will, unless in the opinion of its counsel the matter has been settled by controlling precedent, submit to a court of appropriate jurisdiction the question whether such indemnification by it is against public policy as expressed in the Act and will be governed by the final adjudication of such issue.

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The undersigned registrant hereby undertakes that:

(1) For purposes of determining any liability under the Securities Act of 1933, the information omitted from the form of prospectus filed as part of this registration statement in reliance upon Rule 430A and contained in a form of prospectus filed by the registrant pursuant to Rule 424(b)(1) or (4) or 497(h) under the Securities Act shall be deemed to be part of this registration statement as of the time it was declared effective.

(2) For the purpose of determining any liability under the Securities Act of 1933, each post-effective amendment that contains a form of prospectus shall be deemed to be a new registration statement relating to the securities offered therein, and the offering of such securities at that time shall be deemed to be the initial bona fide offering thereof.

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SIGNATURES

Pursuant to the requirements of the Securities Act of 1933, the Registrant has duly caused this Amendment No. 1 to the Registration Statement to be signed on its behalf by the undersigned, thereunto duly authorized, in the City of Woodland Hills, State of California, on April 18, 2000.

Capstone Turbine Corporation

By: /s/ AKE ALMGREN

-----  
Ake Almgren  
President and Chief Executive  
Officer

POWER OF ATTORNEY

KNOW ALL MEN BY THESE PRESENTS, that each person whose signature appears below constitutes and appoints Ake Almgren and Jeff Watts, and each of them, with full power to act without the other, such person's true and lawful attorneys-in-fact and agents, with full power of substitution and resubstitution, for him and in his name, place and stead, in any and all capacities, to sign this Registration Statement, and any and all amendments thereto (including post-effective amendments), and to file the same, with exhibits and schedules thereto, and other documents in connection therewith, with the Securities and Exchange Commission, granting unto said attorneys-in-fact and agents, and each of them, full power and authority to do and perform each and every act and thing necessary or desirable to be done in and about the premises, as fully to all intents and purposes as he might or could do in person, hereby ratifying and confirming all that said attorneys-in-fact and agents, or any of them, or their or his substitute or substitutes, may lawfully do or cause to be done by virtue hereof.

Pursuant to the requirements of the Securities Act of 1933, this Amendment No. 1 to the Registration Statement has been signed below by the following persons in the capacities and on the dates indicated.

<TABLE>  
<CAPTION>

SIGNATURE  
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TITLE  
-----

DATE  
-----

<S> <C> <C>

/s/ AKE ALMGREN	President, Chief Executive Officer and Director (Principal Executive Officer)	April 18, 2000
Ake Almgren		
*	Chief Financial Officer (Principal Financial Officer and Principal Accounting Officer)	April 18, 2000
Jeffrey Watts		
*	Director	April 18, 2000
Richard Aube		
*	Director	April 18, 2000
John Jagers		
*	Director	April 18, 2000
Jean-Rene Marcoux		

</TABLE>

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<TABLE>  
<CAPTION>

SIGNATURE	TITLE	DATE
*	Director	April 18, 2000
Benjamin M. Rosen		
*	Director	April 18, 2000
Peter Steele		
*	Director	April 18, 2000
Eric Young		
*By: /s/ AKE ALMGREN		
Ake Almgren		
Attorney-in-Fact		

</TABLE>

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EXHIBIT INDEX

<TABLE>  
<CAPTION>

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23.3# Consent of Latham & Watkins (included in exhibit 5.1)  
24.1# Powers of Attorney (included on signature page).  
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</TABLE>

- -----  
\* To be filed by amendment

+ Filed herewith; portions of this exhibit have been omitted pursuant to a  
request for confidential treatment.

# Previously filed

*\*\* The items marked by two asterisks have been omitted from this filing pursuant to a request for confidential treatment and have been filed separately with the Securities and Exchange Commission.*

**ALLIANCE AGREEMENT**

*This Alliance Agreement ("Agreement") dated August 25, 1997 (the "Effective Date") by and between Solar Turbines Incorporated, a Delaware corporation whose principal address is 2200 Pacific Highway, San Diego, California 92186-5376 ("Solar") and Capstone Turbine Corporation, a California corporation whose principal address is 6025 Yolanda Avenue, Tarzana, California 91356 ("Capstone").*

*WHEREAS, Capstone designs, manufactures and distributes turbogenerators containing Microturbines and has been obtaining primary surface recuperators (PSRs) from Solar; and*

*WHEREAS, Solar Designs, manufactures and distributes PSRs for use in turbines generating various output power levels; and*

*WHEREAS Capstone desires to develop in cooperation with Solar an assurance of supply of PSRs at commercially reasonable prices; and*

*WHEREAS Solar desires to cooperate with Capstone in providing such an assurance of supply of PSRs; and*

*WHEREAS Capstone is projecting an increased demand in its needs for PSRs and is willing to purchase, lease or otherwise provide manufacturing equipment to Solar for the purpose of assisting Solar in increasing its production levels and production cost efficiencies with regard to PSRs supplied by Solar to Capstone; and*

*WHEREAS Solar is interested in Capstone purchasing, leasing or otherwise providing manufacturing equipment to assist Solar in increasing its production levels and achieving greater production cost efficiencies with regard to PSRs supplied by Solar to Capstone;*

*NOW THEREFORE, in consideration of the foregoing premises, the terms and conditions specified herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:*

**DEFINITIONS**

*"Capstone Special Order PSR" shall mean (i) any PSR manufactured according to Capstone's requirements and specifications as listed in the attached Exhibit A to this Agreement including such PSR as may be modified from time to time by \*\* pursuant to \*\* any development PSR offered by either party under \*\* pursuant to \*\* and accepted by the other party (which such development PSR shall be added to Exhibit A), including such development PSR as may be modified from time to time by \*\* and (iii) any similar PSR capable of direct replacement for the PSRs identified in Exhibit A to this Agreement,*

*as such Exhibit may be amended from time to time by the parties to include development PSR models.*

*"Microturbine" shall mean an individual turbogenerator unit generating \*\* output power.*

*"Solar's Houston Facility" shall mean that part of Solar's manufacturing facility located in Houston, Texas which utilizes Phase II Equipment, as defined herein, for manufacturing PSRs suitable for use in Microturbines.*

"Solar Technology" shall mean all information disclosed by Solar to Capstone during the term of this Alliance Agreement and relating to the manufacture and use of PSRs, including for example, but not by way of limitation, trade secrets, proprietary information, manufacturing drawings, blueprints, specifications, parts and materials lists, tolerances, preferred vendor lists, test and performance parameters, and other technical expertise necessary for the manufacture of PSRs.

"CAPSTONE PATENTS" shall mean patents (i) now or in the future owned or controlled by Capstone or its subsidiaries, or (ii) under which and to the extent to which and subject to the conditions under which Capstone or its subsidiaries may have during the term of this Agreement the right to grant licenses of the scope granted herein, such patents claiming inventions substantially based on Solar Technology and being based on patent applications having an effective filing date during the period starting on the Effective Date and ending on the termination or expiration of this Agreement.

## 1.0 SCOPE

1.1 Term of Agreement. This Agreement dated August 25, 1997, (the "Effective Date"), subject to the conditions set forth below in this Section 1.1, shall remain in force for a period of \*\* on which date it will expire unless extended, canceled or terminated as provided herein. Notwithstanding any provision to the contrary contained herein, this Agreement shall only become effective when the parties have agreed upon all Exhibits to this Agreement (and same have been initialed by both parties). The parties shall meet and confer upon the terms of a new Alliance Agreement, if any, no later than \*\*. The provisions of Section 13.1 and 14 shall survive expiration of this Agreement.

1.2 Requirements. During the period ending on the sooner of (i) the \*\* of the Effective Date, or (ii) such time as Capstone has committed to \*\* Capstone Special Order PSRs under the provisions of Paragraph 9.2, Capstone agrees to forecast requirements for Capstone Special Order PSRs to Solar as provided for in Paragraphs 9.1 and 9.2 of this Agreement and to tender purchase orders, specifying prices specified for in attached Exhibit B as such Exhibit may be updated and specifying those volumes as forecast in the rolling six month commitment provided for in Paragraphs 9.1 and 9.2, for \*\* of Capstone's anticipated annual requirements for Capstone Special Order PSRs from Solar, according to the terms and conditions of this Agreement. Authorization from Capstone to Solar to manufacture Capstone Special Order PSRs will be made in the form of purchase order(s), revision(s), or release(s).

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1.3 Termination by Solar. Solar may terminate this Agreement, upon ninety (90) days written notice to Capstone that Solar is ceasing the manufacture of PSRs other than for Solar or Caterpillar, Inc.; provided that Solar shall make the full production capacity of the Solar Houston Facility available to Capstone for the lesser period of (i) twenty-four (24) months from the date of notice under this Paragraph 1.3 or (ii) until the Technology Transfer to Capstone as provided for in Paragraph 5.1 of the License Agreement between the parties of even date herewith is completed, if Capstone elects to exercise the license rights granted under the License Agreement.

1.4 Termination by Capstone. Capstone may terminate this Agreement upon ninety (90) days written notice to Solar and payment within 60 days of such notice of an amount equal to: (i) \*\*

1.5 Capstone shall grant to Solar a non-exclusive, non-transferable, non-sublicensable, world-wide \*\* for the duration of this Alliance Agreement. In the event of a conflict between the terms of a patent license granted under this Agreement and a patent license granted under the License Agreement between the parties of even date herewith, the terms of the License Agreement shall take precedence.

## 2.0 ANNUAL BUSINESS REVIEWS

Annual business reviews with executive management, representing both Capstone and Solar, shall be conducted for the purpose of mutual goal-setting and review of prior year performance to goals and measurements determined under this Agreement, and will include such other business-related topics as:

- - Market overview/forecast

- - Technological advancement trends
- - Restructures/organizational changes
- - Planning to meet contingencies forecast by either party
- - Future product prices and price targets
- - General business review

For optimum planning, the annual business reviews will take place during the fourth quarter of each calendar year. Capstone and Solar will set a date for the meeting allowing at least \*\* for preparation and travel arrangement purposes, the specific location and date to be mutually agreed to by both parties.

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### 3.0 PROGRAM MANAGERS AND TERMS

3.1 Teams will be formed, with representation from both companies, to encourage consistency of approach and to achieve the greatest gains in improving quality, reducing lead times, lowering costs, and meeting delivery schedules. The Teams will consist of representatives from each company, including the Program Manager from each company, and representatives from engineering, sales, purchasing, supplier quality, manufacturing, and ad hoc members.

3.2 Each party hereby designates the individual identified below as its Program Manager with responsibility for scheduling coordinating, and overseeing the implementation of the parties' duties and obligations under the provisions of this Agreement.

Capstone's Program Manager \*\*

Solar's Program Manager \*\*

### 4.0 PRODUCTIVITY IMPROVEMENTS

4.1 The parties agree to increase the production capacity at Solar's Houston Facility in two phases as set forth below.

4.2 Phase I Solar agrees to make reasonable efforts to increase the production capacity from a current level of approximately \*\* In addition, Solar agrees to make reasonable additional investments in research of manufacturing technology with the goal of increasing production capacity of Capstone Special Order PSRs to be \*\*

4.3 Phase II. In order to assist Solar to increase production of Capstone Special Order PSRs from approximately \*\* and to reduce per unit price and to meet the hours per core targets by the end of the \*\* Capstone agrees to purchase, lease or otherwise provide for installation at Solar's Houston facility high speed, dedicated, automatic machinery and tooling (the "Phase II Equipment"). The parties will cooperate and work jointly to identify and evaluate suppliers and equipment for Capstone to purchase, lease or otherwise provide to Solar.

4.4 A projected installation schedule for Phase II Equipment, including decisions related to the total cost of Phase II Equipment, the timing of manufacturing capacity increases, projected manufacturing hours per unit, and total capacity will be made by mutual agreement between Capstone and Solar within six months from the Effective Date. Phase II Equipment will be installed and integrated by Solar with Phase I equipment at \*\* that one production line, \*\* is formed. All property made available by Capstone will be identified as and remain the property of Capstone and Capstone will be responsible for paying all applicable property and other taxes associated with such property. Capstone will also be responsible for reimbursing Solar for all

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reasonable maintenance expenses incurred by Solar above normal operating maintenance requirements and all necessary repair performed on such property. Each party shall bear the risk of liability arising from injury to that party's employees or representatives. Solar shall be responsible for damage to Solar's Houston Facility resulting from the installation or use of the Phase II Equipment.

4.5 The projected cost of the Phase II Equipment is \*\* The parties recognize however, that this is an estimate only. Capstone shall provide cumulatively up to \*\*, for Phase II Equipment, as needed after consultation and review with Solar. The parties agree, however, to use reasonable efforts to keep the cost of the Phase II Equipment to a minimum, consistent with reasonable business practices and with the goal of achieving increased production capacity and manufacturing efficiency at Solar's Houston Facility. Notwithstanding any provision contained in this Agreement to the contrary, Solar does not guarantee any results whatsoever, whether with regard to an increase in production capacity or PSRs or with regard to a decrease in per unit prices of PSRs. Each party to this agreement represents that it is an independent, experienced and sophisticated business entity. Each party conducts its own investigations and obtains its own information about business transactions. Each party relies wholly on its own counsel in making business decisions and assumes all risks with regard to whether individual investments achieve certain results. Solar may provide to Capstone, however, certain information regarding Phase II Equipment performance, reliability, efficacy, suppliers and purchases. Solar assumes no responsibility regarding the accuracy, sufficiency, or completeness of such information, except in the case that Solar's conduct in providing inaccurate, insufficient or incomplete information is intentional or grossly negligent.

4.6 The parties recognize that the availability and performance of Phase II Equipment sufficient to achieve forecasted volumes \*\* to reduce per unit price, and to meet the target manufacturing hours per core for Capstone Special Order PSRs is uncertain, but that certain milestones will be reached at which point the parties will be better situated and informed to judge the likelihood of success. These milestones, when reached, will allow the parties to make go/no-go decisions with regard to the Phase II effort. Such milestones include:

(A) On or about \*\*, the parties will have additional information regarding the likely cost and performance of certain Phase II Equipment. At that point, if Capstone reasonably believes the Phase II Equipment will not perform as required to achieve, or will cost cumulatively more than \*\* to achieve forecasted volumes \*\*, to reduce per unit price, and to meet the target manufacturing hours per core for Capstone Special Order PSRs, Capstone shall have the option to (i) provide additional funding for Phase II Equipment; or (ii) provide Solar thirty days advance written notice of its intention to withdraw from the Phase II effort, in which case (a) Capstone shall be under no obligation to provide any funding for Phase II Equipment, (b) Capstone shall be relieved of its obligation under Paragraph 1.2 to purchase \*\* for Capstone Special Order PSRs from Solar, but (c) Capstone shall remain obligated to purchase from Solar \*\* after the Effective Date.

(B) On or about \*\*, the Phase II Equipment will be installed at Solar's Houston Facility. At that point, if the Phase II Equipment does not perform as required to achieve, or if funding beyond Capstone's cumulative commitment of \*\* is required in order to achieve forecasted volumes \*\*, to reduce per unit price, and to meet the target manufacturing hours per core for Capstone Special Order PSRs, Capstone shall have the option to (i) provide additional funding for Phase II Equipment; or (ii) provide to Solar thirty days advance written notice of its intention to withdraw from the Phase II effort in which case, (a) Solar shall promptly deliver to a destination provided by Capstone, and at Capstone's expense the Phase II Equipment, (b) Capstone shall be relieved of its obligation under Paragraph 1.2 to \*\* of its annual requirements for Capstone Special Order PSRs from Solar, but (c) Capstone shall remain obligated to \*\* after the Effective Date.

4.7 Unless otherwise provided for in this Agreement, the Phase II Equipment shall remain at Solar's Houston Facility during the term of this Agreement. Upon termination of this Agreement as set forth above, Capstone will offer the Phase II Equipment to Solar at the fair market value, but if no market exists for the Phase II Equipment, at a price equivalent to ten percent (10%) over the salvage value. If Solar elects not to purchase the Phase II Equipment at the agreed price, Solar shall deliver the Phase II Equipment, at Capstone's expense, to a destination provided by Capstone.

## 5.0 SPECIFICATIONS

5.1 The Capstone Special Order PSRs covered by this Agreement shall be manufactured in accordance with Capstone's interface engineering drawings, and

specifications. In the event Solar is unable to manufacture Capstone Special Order PSRs as defined, Solar agrees to notify Capstone's Program Manager in writing. Any and all agreements for deviations or changes shall be made in writing, signed by Capstone. Capstone and Solar will resolve exceptions or deviations to their mutual satisfaction prior to the start of manufacture of any Capstone Special Order PSRs. Capstone's engineering drawings and specifications define the minimum standard and Solar agrees to meet this standard. Capstone and Solar agree to maintain sufficient technical liaison in order to prevent or eliminate manufacturing and / or quality problems.

5.2 Solar is not offering specific performance guarantees. Solar has used performance goals, along with the conditions within the turbine provided by Capstone, together with Solar's design codes and experience to size the recuperator. Solar will provide recuperators to a specific design that Capstone has integrated and operated with their turbine and which Capstone has accepted as the design suited for the proposed application.

5.3 As-new leakage will be \*\* of the recuperator air mass flow at design air side pressures.

5.4 Solar assumes that the loads and moments at the gas interfaces \*\* under any condition, including upset or malfunction.

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## 6.0 QUALITY

A quality plan will be established by Solar and will be subject to written approval by Capstone. This program will be consistent with Solar's then existing ISO 9000 practices.

## 7.0 ARMS' LENGTH TRANSACTION

The parties to this Agreement specifically intend that neither this Agreement nor any course of dealings between them shall create fiduciary obligations. Nothing contained in this Agreement, and no course of dealings between the parties shall be construed as establishing a partnership, joint venture or agency between the parties. The rights, duties and obligations of the parties are to be controlled exclusively by contract. Any obligation or covenant of good faith and fair dealing, whether express, implied-in-fact or implied-in-law, is intended to be contractual only. Any disclosure obligations contained in or arising from this Agreement or course of dealings between the parties are strictly contractual, and do not create fiduciary obligations. The parties intend that any disclosures of information, confidential or otherwise, during the course of business negotiations or dealings shall not be construed as creating additional disclosure obligations.

## 8.0 DEVELOPMENT PRODUCTS

8.1 The parties recognize that various \*\*, such as modifications, design changes, redesigns, and manufacturing process improvements may be made to Capstone Special Order PSRs during the term of this Agreement.

A) \*\* not affecting the form, fit, function, or safety of Capstone Special Order PSRs and which \*\* do not involve or require increased technical risk, tooling changes, field retrofit, or more than \*\* may be requested by either party for, approval by the other party, which approval shall not be unreasonably withheld. If the non-requesting party approves such \*\* the Capstone Special Order PSRs shall be modified as required to incorporate and implement such \*\*

B) \*\* relating to new, re-designed, or substantially modified PSRs or \*\* which involve or require increased technical risk, tooling changes, field retrofit, or more than \*\* shall be referred to as \*\* initiated by Solar may be disclosed to Capstone at Solar's sole option and discretion for possible inclusion of Capstone Special Order PSRs incorporating and implementing such \*\* under the terms of this Agreement. \*\* initiated by Capstone must be promptly disclosed to Solar to allow Solar a right of first refusal to manufacture the resulting new Capstone Special Order PSRs incorporating and implementing such \*\* under the provisions of this Agreement. If new Capstone Special Order PSRs are agreed upon under the terms of this sub-paragraph 8.1 (B), the parties shall add such new Capstone Special Order PSRs to this Agreement and update Exhibits A and B

as provided for in Paragraph 8.2.

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C) Either party may initiate improvements to the manufacturing process used in the production of Capstone Special Order PSRs that do not affect the form, fit, function, or safety of Capstone Special Order PSRs (\*\*). Neither party is under obligation to disclose \*\* to the other party. Solar shall, however, disclose to Capstone the fact that it is initiating a \*\* and will provide Capstone sufficient information regarding the timing of the implementation of such \*\* (including, if appropriate, shipment lots or other indicia of Capstone Special Order PSRs impacted by such \*\* to allow Capstone to track and assess the impact, if any, of such \*\* on the quality, reliability, or performance of Capstone Special Order PSRs provided by Solar.

8.2 Changes to Exhibits "A" and "B". When mutually beneficial and acceptable, and as provided under Paragraph 8.1, Capstone Special Order PSRs may be added to or deleted from Exhibit "A" by written addendum thereto signed by both parties and such added Capstone Special Order PSRs will then become subject to this Agreement. Price for the next production period for the new Capstone Special Order PSRs shall be based upon procedures outlined in Exhibit B. The prices applicable to each such additional Capstone Special Order PSR shall be subject to adjustment as provided for in Exhibit B. The pricing terms contained in this Agreement shall apply to Capstone Special Order PSRs when such Capstone Special Order PSRs have been released to production or when Solar has begun accepting Purchase Orders for production-run quantities of such Capstone Special Order PSRs. The pricing terms contained in this Agreement do not apply to prototypes for new Capstone Special Order PSRs.

#### 9.0 REQUIREMENTS, FORECAST VOLUME AND TIME FENCE

9.1 On the Effective Date, Capstone shall provide to Solar a forecast equivalent to \*\* of Capstone's requirements for Capstone Special Order PSRs for the \*\* period commencing \*\* (the "Forecast") (attached hereto as Exhibit E). Each month subsequent to \*\* and until such time as Capstone has forecast requirements for at least \*\* Capstone shall update the Forecast to keep the Forecast current for a \*\* projected period Solar shall have \*\* from receipt to accept the Forecast and updates, or to notify Capstone in writing that it does not accept the Forecast or updated portion thereof. Solar agrees to accept the Forecast, and as updated, provided Solar has or reasonably anticipates having sufficient manufacturing capacity at Solar's Houston Facility to satisfy Capstone's forecasted requirements. The Forecast is not an authorization to commit funds or proceed in any way, except to the extent of the \*\* rolling time fence portion of the Forecast as specified in Paragraph 9.2.

9.2 The Forecast, and as updated, shall be the basis for a firm requirements and delivery commitment between the parties. The initial \*\* commitment period shall begin \*\* and each month shall roll forward one additional month to stay current for \*\* periods. By the end of \*\* of each year, or as otherwise agreed by the parties, Capstone shall tender to Solar \*\* specifying the price for the initial \*\* and the subsequent \*\* as provided for in Exhibit B and referencing volumes per

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the \*\* firm requirements periods falling within the subsequent \*\* per the terms of this Paragraph 9.2. Subject to and under the terms and provisions provided for in this Agreement and the attachments hereto: (i) Capstone shall accept all Capstone Special Order PSRs meeting Capstone's incoming requirements, timely shipped pursuant to the \*\* and (ii) Solar shall provide sufficient Capstone Special Order PSRs to satisfy \*\*. Notwithstanding the foregoing, in no event shall Capstone be obligated to purchase more than \*\* in any given \*\* and the \*\* may be adjusted accordingly to reflect \*\*. Capstone may request a schedule change (for Solar's consideration only) in order to reschedule delivery of Capstone Special Order PSRs within the \*\* to Capstone. Any resulting changes must be mutually agreeable to both parties (but consent by either party shall not be unreasonably withheld).

9.3 If Capstone has not tendered purchase orders for at least \*\* on or before \*\* Capstone's obligations under Paragraph 1.2 shall continue until such time as

Capstone has tendered purchase orders for at least \*\* but the date by which Capstone shall have purchased at least \*\* shall not be executed beyond the \*\* of the Effective Date.

#### 10.0 INDEPENDENCE OF BUSINESS ACTIVITIES

10.1 While Capstone presently has no intention of manufacturing individual turbogenerator units generating \*\* Solar acknowledges that nothing contained in this Agreement restricts Capstone in any way from manufacturing any size of turbine engine or turbogenerator units at its sole discretion at any time if Capstone does not infringe upon Solar's patents or other intellectual property rights.

10.2 While Solar presently has no intention of manufacturing gas turbine engines with an output \*\* Capstone acknowledges that nothing contained in this Agreement restricts Solar in any way from entering the \*\* gas turbine market at its sole discretion at any time if Solar does not infringe upon Capstone's patents or other intellectual property rights.

#### 11.0 PRICING AND PAYMENT TERMS AND CAPACITY UTILIZATION

11.1 In order to ensure Capstone a firm price for Capstone Special Order PSRs, while removing the risk to Solar of changes in material and labor costs beyond Solar's control, prices for Capstone Special Order PSRs will be set, with allowances for variations in Solar's costs as provided for in Exhibit "B," which is incorporated herein by reference. Independent certified public accountants selected by Capstone and reasonably acceptable to Solar may review Solar's written documentation concerning manufacturing cost in accordance with Exhibit B with regard to Capstone Special Order PSRs, provided Capstone provides three (3) business days notice of such audit and audits at reasonable business hours. The pricing formula and adjustment provisions of Exhibit B are premised on the assumption that Capstone's expenditure for Phase II Equipment as provided for in Section 6 of this Agreement will result in sufficient manufacturing capacity and

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efficiency at Solar's Houston Facility to meet the target set for Labor Hours per Recuperator defined in Exhibit B.

11.2 For each additional Capstone Special Order PSR model to be purchased by Capstone under this Agreement, the parties shall update Exhibits "A" and "B" as required. The price for the additional Capstone Special Order PSRs shall be based upon procedures outlined in Exhibit B.

11.3 If during the term of this Agreement Solar sells to a third party substantially identical PSRs (in number of pieces and parts, geometric configuration, size and weight, including core to engine attachment hardware Solar is supplying to Capstone, and material) in quantities comparable to those being purchased by Capstone, and at a price (taking into account any credits, rebates, other monetary or non-monetary consideration provided when determining the price to the third party) less than the then-current price being charged Capstone as provided for in Exhibit B, the price charged to Capstone for those Capstone Special Order PSRs shall be lowered to the price being charged the third party.

11.4 Recognizing that costs of raw materials can be a significant component of the price to Capstone of Capstone Special Order PSRs, Solar agrees to use reasonable efforts to secure the lowest cost supply of raw materials, provided such supply satisfies Solar's normal incoming raw materials quality controls. Solar shall evaluate suppliers of raw materials identified in writing by Capstone and shall purchase raw materials from those suppliers provided such raw materials satisfy Solar's normal incoming raw materials quality controls. Solar's savings in raw material costs shall be reflected in the price of Capstone Special Order PSRs, as provided for in the pricing provisions of Exhibit B.

11.5 All purchase orders tendered by Capstone under the terms of this Agreement shall be subject to and governed by the Terms and Conditions contained in Exhibit D attached hereto. In the event of a conflict between the terms of this Agreement and any subsequent transaction between the parties, including purchase orders and order acknowledgments, the terms of this Agreement shall prevail and take precedence over such subsequent purchase orders and other form documents.

11.6 Solar shall give first priority of the Solar Houston Facility production capacity to the manufacture of Capstone Special Order PSRs. "Excess Capacity" shall be defined as the difference between Capstone's \*\* for Capstone Special Order PSRs pursuant to Paragraph 9.2 and the actual production capacity of Solar's Houston Facility for \*\*. For each \*\* (i) Capstone shall have the right of first refusal to have PSRs manufactured using Excess Capacity; (ii) if Capstone does not exercise its right of first refusal, Solar may use the Excess Capacity at its sole discretion; provided however that (iii) Capstone will be given first priority to the Excess Capacity upon sixty days written notice to Solar. Notwithstanding the foregoing, in no event will Solar manufacture the identical Capstone Special Order PSRs with the identical part number for sale to third parties, except third parties designated in writing by Capstone's Program Manager, as provided for in Paragraph 3.2, but the parties recognize Solar may sell substantially similar PSRs. Solar agrees not to knowingly sell or repair Capstone Special Order PSRs to any entity requiring such PSRs to perform service on Capstone's Microturbines and Solar will not knowingly service Capstone's aftermarket.

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#### 12.0 SUPPLIER COST INFORMATION

12.1 Solar agrees to provide sufficient cost data to enable Capstone to understand and verify cost variations associated with development products set forth in Section 8.0. Capstone may also offer its cost reducing suggestions to Solar for Solar's consideration.

#### 13.0 CONFIDENTIAL INFORMATION AND NOTICES

13.1 Confidential Information. The parties hereby ratify and incorporate that certain Nondisclosure Agreement, executed by the parties in June 1996 and attached hereto as Exhibit "C" (the "Nondisclosure Agreement") as modified in the License Agreement between the parties of even date herewith.

13.2 Notices. All notices, requests, demands and elections under this Agreement shall be in writing and shall be deemed to have been duly given (i) when delivered by hand, (ii) one (1) day after being given to an express courier with a reliable system for tracking delivery, (iii) when sent by confirmed facsimile with a copy sent by another means specified herein, or (iv) three (3) days after the date of mailing by certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

If to Capstone:

Capstone Turbine Corporation  
6025 Yolanda Avenue  
Tarzana, California 91356

Attention: Paul Craig  
President and Chief Executive Officer

With a copy to:

Richard Harroch  
Orrick, Harrington & Sutcliffe  
400 Salsome Street  
San Francisco, CA 94111

If to Solar:

Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, California 92101

Attention: Director, Recuperator Business

With a copy to:

General Counsel  
Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, California 92101

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Solar or Capstone may, from time to time, change its address or its designee for notification purposes by giving the other party prior written notice of the new address or the new designee and the date upon which the change shall be effective.

13.3 The terms and conditions of this Agreement are confidential and are subject to the provisions of the Nondisclosure Agreement, Exhibit C.

#### 14.0 GENERAL TERMS AND CONDITIONS

14.1 Warranty. Solar warrants, that if Capstone shall notify Solar in writing within the "Warranty Period," as defined herein, that the Products purchased hereunder are "defective" (defined herein as not of the kind or quality of materials designated or described in the specifications given to Solar by Capstone in writing or changes approved jointly by Capstone and Solar in accordance with Section 5.0 of this Agreement, or failing to meet the performance criteria specified in Exhibit D hereto, as such Exhibit may be modified from time to time by joint agreement of the parties), Solar shall, upon mutual determination by the parties that such Products were defective, repair or replace such Products not actually meeting said specifications if such Products (or representative samples of a common defect and failure documentation concerning all such Products, as mutually agreed between the parties) are returned to Solar's facility at Capstone's expense. Solar agrees to work with Capstone to determine the cause of field problems and defects. "Warranty Period" shall mean the first period to elapse of (i) \*\* from the expiration of the "inactive" warranty as provided for in Exhibit A, or (ii) \*\* from the expiration of the "active" warranty period as provided for in Exhibit A, or (iii) \*\* from the discovery by Capstone of the defect. Notwithstanding the foregoing, the Warranty Period may be adjusted to allow Capstone a warranty period comparable to the warranty period Capstone provides to its customers, provided that (i) Capstone demonstrates that the defect occurred during the Warranty Period; and (ii) the adjustment does not result in Solar being held to a greater warranty standard than Capstone is held to with its own customers. This warranty shall be valid during the "inactive" or "active" warranty period, whichever period elapses first and no liability shall arise for defects that arise after the expiration of the Warranty Period. This warranty is only applicable if the Product has not been subjected to foreign object damage, misuse, or detrimental exposure, has not been involved in an accident and has been transported, stored, installed, used, handled, maintained, repaired or modified in accordance with the current recommendations of Solar or any manufacturer of certain components of the Product as stated in its manuals, bulletins, or other written instructions which have been submitted to Capstone: provided however, that if Capstone demonstrates that the defect was not caused by such foreign object damage, misuse, detrimental exposure, or accident, or failure to transport, store, install, use, handle, maintain, repair, modify in accordance with recommendations, then the warranty will remain applicable. If any warranty incidents or claims occur beyond the Warranty Period, both parties agree to meet and resolve such incidents and claims in a mutually satisfactory manner. THE FOREGOING WARRANTY IS IN LIEU OF ALL OTHER WARRANTIES, EXPRESSED OR IMPLIED (INCLUDING ANY WARRANTY OF MERCHANTABILITY OR FITNESS FOR A PARTICULAR PURPOSE), AND SOLAR SHALL NOT BE LIABLE FOR ANY INCIDENTAL OR CONSEQUENTIAL DAMAGES. The liability of Solar resulting from the foregoing warranty shall not in any case exceed the cost of correcting such defects as provided above. The foregoing shall constitute the sole remedy of Capstone and the

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sole liability of Solar for breach of warranty, whether the claim is in contract, warranty, tort (other than gross negligence or intentional acts), strict liability, or otherwise. This warranty may be modified during the term hereof with the mutual written agreement of both parties. Any modifications to this warranty must be agreed to and signed by the parties.

14.2 Material Breach. If either party materially breaches this Agreement, upon written notice to the defaulting party specifying such breach, the defaulting party shall have thirty (30) days after such notice to remedy such breach or to implement a program, reasonably satisfactory to the party not in default, to correct such breach. If such material breach remains uncured after thirty (30) days, either party may initiate the dispute resolution proceedings provided for in Paragraph 14.3. Notwithstanding the foregoing, Solar may terminate this Agreement and the License Agreement of even date herewith upon thirty (30) days written notice to Capstone if Capstone fails to tender \*\*, as provided for in Paragraphs 1.2 of this Agreement within \*\* from the Effective Date, provided

however, that Capstone shall have the option to cure such grounds and Solar shall not terminate this Agreement or the License Agreement on such grounds provided Capstone either (i) tenders to Solar \*\* for amounts of Capstone Special Order PSRs equivalent \*\* Capstone Special Order PSRs until Capstone has tendered purchase orders for at least \*\* or (ii) tenders to Solar an amount equivalent to \*\* of the price for Capstone Special Order PSRs determined for the prior \*\* multiplied by the shortfall between \*\* and the \*\* on or before the date Capstone receives written notice pursuant to this Paragraph 14.2.

14.3 Dispute Resolution. If a dispute arises under the terms or performance of this Agreement, unless by mutual consent the parties agree otherwise, the parties shall resolve such dispute as follows:

A) the parties' respective Program Managers shall have ten days to attempt resolution; if the Program Managers are unable to resolve the dispute themselves;

B) each Program Manager shall present a written statement of the dispute and a proposed resolution for consideration at a meeting of a senior executive officer from each company the meeting to be held within fifteen days from the expiration of the ten day period contemplated in the preceding sub-paragraph;

C) if the senior executive officers cannot resolve the dispute within ten days from the meeting date specified in the preceding sub-paragraph, the parties agree to submit such dispute to arbitration before a neutral three member board of arbitrators under the provisions of Paragraph 14.4.

14.4 Arbitration. Subject to the provisions of Paragraph 14.3 of this Agreement, any claim or dispute arising hereunder that has not been resolved by the parties shall be determined by arbitration in accordance with the Commercial Arbitration Rules then in effect of the American Arbitration Association in San Diego, California; provided that no demand for arbitration shall be instituted after the date after which legal proceedings on the same claim would have been barred by

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the applicable statute of limitations. The party requesting arbitration shall appoint one independent neutral arbitrator in writing and the responding party shall appoint one independent neutral arbitrator in writing within fifteen (15) days thereafter. The two arbitrators so selected shall then appoint a third arbitrator within fifteen (15) days thereafter. The award rendered in such arbitration may provide for equitable remedies, an accounting and/or reimbursement for attorneys', accountants' or consultants' fees, as the arbitrators shall see fit. Such award shall be final, and judgment on it may be entered in or enforced by any court, state, federal or foreign, having jurisdiction thereover. This provision shall not preclude the impleading or joining of one of the parties hereto by the other in an action brought by a third party and all matters with respect thereto shall be decided by the court or body deciding that action. Any party may apply to an appropriate court of law for a preliminary injunction, attachment or other similar remedy available to it in aid of the arbitration proceeding provided for herein. In the arbitration each party shall be entitled to demand production of documents and other items from any other party hereto, in accordance with the terms of Rule 34 of the Federal Rules of Civil Procedure. Any disputes concerning such demand shall be determined by the arbitrator(s), and any such determination shall be binding on the parties.

14.5 California Law. This Agreement shall be governed by and construed in accordance with the laws of the State of California as if made in California for performance entirely within the State of California.

14.6 Entire Agreement. This Agreement includes Exhibits "A" through "E" attached hereto and constitutes the entire agreement between the parties with respect to the subject matter hereof, supersedes all prior oral or written agreements regarding the subject matter hereof, and cannot be changed except by a writing signed by both parties.

14.7 Severability. If any provision of this Agreement is held illegal, invalid or unenforceable under present or future state or federal laws, or rules and regulations promulgated thereunder, effective during the term hereof, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never

comprised a part thereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be automatically as part of this Agreement a provision similar in terms to such illegal, invalid or unenforceable provision as may be possible and be legal, valid, and enforceable.

14.8 Assignment. This Agreement is not assignable or transferable without the prior written consent of each party, which consent may be withheld for any reason except that either party may assign or transfer this Agreement to an affiliated entity without the consent of the other party.

14.9 Independent Research. Nothing in this Agreement shall (a) impose any restriction on either party from carrying out independent research and development activities in any field, (b) in relation to the results of any such independent research and development activities of one party, give rise to any ownership right or claim by the other party; nor (c) restrict either party in the exploitation in any manner of the results of its independent research and development activities.

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14.10 No Sharing of Liabilities. Nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of the parties. No party shall be liable to the other for any of the costs, expenses, risks, or liabilities arising out of the other party's efforts in connection with this Agreement.

14.11 Manufacture of PSRs. Subject to the provisions of Paragraph 11.6 regarding the use of Phase II Equipment, Solar is under no restriction or obligation to Capstone regarding the manufacture, use or sale of PSRs other than Capstone Special Order PSRs.

14.12 Use of Solar PSRs. Subject to the provisions of \*\* Capstone is under no obligation to incorporate only Capstone Special Order PSRs in Microturbines manufactured and delivered by Capstone.

14.13 Employee Solicitation. For a period of \*\* from the date of this Agreement, Solar and Capstone agree not to solicit for employment purposes, any employee of the other party who has had access to that other party's Proprietary Information utilized in implementing this Agreement.

14.14 Jurisdiction. For any matter or claim to be considered by a court under this Agreement the parties consent to the exclusive jurisdiction of the courts of the United States of America and the State of California and any subdivision thereof. Any injunctions, order or judgments entered, issued, or granted from any courts having jurisdiction hereunder shall be enforceable within the State of California and in any state or country wherein lie the offices and/or assets of the party against whom the said injunction, order or judgment is entered.

14.15 Conflict Provision. In the event of conflict of any provision of this Agreement and any transaction, including purchase orders from Capstone and accepted by Solar, the provisions of this Agreement shall prevail.

14.16 Headings. The section headings used in this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

14.17 Interpretation. Each party to this Agreement has had the opportunity to review the Agreement with legal counsel. This Agreement shall not be construed or interpreted against either party on the basis that such party drafted or authored a particular provision, parts of, or the entirety of this Agreement.

14.18 Force Majeure. Neither party to this Agreement shall be liable for any default or delay in the performance of its obligations under this Agreement (except for the duty to pay for services rendered or Product received) if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements of nature or acts of God, riots, civil disorders, rebellions or revolutions, or any other cause beyond the reasonable control of such party (including the inability to receive raw materials from a supplier), provided the non-performing party is without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions nor reasonably be circumvented by the nonperforming party through

the use

of alternate sources, work-around plans or other means. In such event, the non-performing party shall be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use reasonable efforts to recommence performance or observance of the obligations so affected for as long as such circumstances prevail. Notwithstanding the foregoing, a party shall not be entitled to the benefits of this Section 14.18 unless any party so delayed in its performance promptly notifies the party to whom performance is due by telephone, radio, messenger or other available means (to be confirmed in writing within two (2) working days of the inception of such delay) and describe at reasonable level of detail the circumstances causing such delay.

14.19 No Change in Purchase Order. Notwithstanding any provision contained in this Agreement to the contrary, no term or provision of this Agreement changes or in any way modifies the terms of \*\*.

14.20 Public Acknowledgement. Both Solar and Capstone may publicly acknowledge and announce that they have entered into an Alliance Agreement for the purchase and development of PSRs for incorporation into Capstone's Microturbines. Notwithstanding the foregoing, Capstone agrees that it will not advertise, or otherwise indicate that any Capstone Special Order PSRs are sponsored, endorsed, or otherwise guaranteed by Solar or that the Alliance Agreement between Capstone and Solar is an exclusive agreement.

14.21 Rights. Each and every right, power, and remedy herein specifically given to either party or otherwise in this Agreement shall be cumulative and shall be in addition to every other right, power, and remedy herein specifically given or now or hereafter existing at law, in equity or by statute, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any such right, power, or remedy.

15.0 COVENANTS

Capstone and Solar represent and warrant that the execution, delivery and performance of this Agreement has been duly authorized by all necessary corporate action on the part of Capstone and Solar, respectively, and that this Agreement constitutes a legal, valid and binding obligation, enforceable in accordance with its terms.

IN WITNESS WHEREOF, Capstone and Solar have executed this Agreement on the date set forth below to be effective as of the time set forth in Section 1.1 of this Agreement.

SOLAR TURBINES INCORPORATED

CAPSTONE TURBINE CORPORATION

By: /s/ DAVID W. ESBECK

By: /s/ PAUL CRAIG

-----  
David W. Esbeck  
Vice President, Engineering

-----  
Paul Craig  
President & Chief Executive Officer

Dated: 22 Aug 97

Dated: August 25, 1997

EXHIBIT A -- PRODUCTS COVERED BY AGREEMENT

<TABLE>  
<CAPTION>

SELLER'S P/N	SPECIFICATION	DESCRIPTION	INACTIVE WARRANTY PERIOD	ACTIVE WARRANTY PERIOD
<S>	<C>	<C>	<C>	<C>

203210-100	TBD	Recuperator Assembly **	** from date of ship- ment of the Product by Solar	** from first use by Capstone's Customers
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</TABLE>

/s/ PAUL CRAIG ----- CAPSTONE TURBINE CORPORATION	August 25, 1997 ----- DATE
---	----------------------------------

/s/ ----- SOLAR TURBINES INCORPORATED	8/22/97 ----- DATE
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EXHIBIT B - PRICING BASIS

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/s/ PAUL CRAIG ----- CAPSTONE TURBINE CORPORATION	August 25, 1997 -----
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/s/ ----- SOLAR TURBINES INCORPORATED	22 Aug. 97 -----
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EXHIBIT B

MANUFACTURING HOURS PER CORE - TARGET

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[SOLAR TURBINES LOGO]      Company Confidential  
EXHIBIT C

NON DISCLOSURE AGREEMENT

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NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement ("Agreement") is made effective as of June 1, 1996 by and between Solar Turbines Incorporated, a Delaware corporation having its principal office in San Diego, California ("Solar") and Capstone Turbine Corp., a Delaware corporation having its principal office in Tarzana, California ("Capstone").

WHEREAS, Solar is engaged in the business of designing, manufacturing and selling industrial turbomachinery, including gas turbine engines and related systems ("Solar Products"). Solar has developed certain unique primary surface recuperator and interconnection (interface) technology ("Solar Recuperator Technology") which it owns and may apply to the design and application of recuperators; and

WHEREAS, Capstone is actively engaged in the development of gas turbines and recuperated gas turbines in the \*\* and

WHEREAS, Capstone is actively engaged in the development of major components of both gas turbines and recuperated gas turbines in this size range; and

WHEREAS, these components include turbines, compressors, air bearings, combustors, permanent magnet alternators, electronic convertors, and recuperators ("Capstone Products"); and

WHEREAS, Solar owns and has the unencumbered right to disclose to Capstone certain proprietary information relating to the Solar Recuperator Technology and Solar Products and Capstone owns and has the unencumbered right to disclose to Solar certain proprietary information relating to Capstone Products (collectively, such information from each party is referred to herein as "Proprietary Information"); and

WHEREAS, each party desires to disclose Proprietary Information to the other party for the limited purpose of evaluating whether the parties may desire to work together on projects relating to Solar Recuperator Technology, Capstone Products, Solar Products and other matters, and should a purchase order issue or contract to be entered into, then for work or services performed thereunder; and

WHEREAS, Solar and Capstone executed a Nondisclosure Agreement, dated July 11, 1994, when Capstone was operating under the name "NoMac Energy Systems, Inc."; and

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WHEREAS, the previous Nondisclosure Agreement between the parties, dated July 11, 1994, is terminated effective May 31, 1996 and this Agreement shall become effective June 1, 1996; and

WHEREAS, as used herein, "Party", "receiving party" and "disclosing party" means each and every party who may receive or disclose Proprietary Information regardless of the use of the singular rather than the plural form "parties".

NOW, THEREFORE, in consideration of the foregoing premises, the following promises, covenants and undertakings, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound, the parties agree as follows:

1. Each Party will use its best efforts to keep in confidence, and not use or disclose to any person or persons, proprietary information disclosed to it under this Agreement.

Each Party recognizes that any disclosure of proprietary information would substantially injure the disclosing Party's business, impair its investments and goodwill and jeopardize its relationships with its buyers and customers. In order to protect such proprietary information, the Parties agree:

(a) to hold all proprietary information in safekeeping and in strict confidence and not to disclose proprietary information to any third parties or permit use of all such information to the disadvantage of the disclosing Party;

(b) to treat all proprietary information with at least the same degree of care with which each treats and protects its own proprietary information which it does not wish to disclose to third parties, which in any event shall be reasonable under the circumstances;

(c) to limit the access of all proprietary information to only those employees within its organization who require the proprietary information in performing the limited purpose of this Agreement, and to inform each of its employees of the provisions of this agreement; and

(d) to use proprietary information only to the extent necessary for performing the limited purposes of this Agreement.

2. Exceptions. The restrictions contained in Section 1 shall not apply to any proprietary information if the same is:

(a) in the public domain at the time of disclosure, or is subsequently made

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available by the disclosing Party to the general public without restriction;

(b) known by the receiving Party at the time of disclosure, as

evidenced by appropriate documentation, or independently developed, as evidenced by appropriate documentation, by the receiving Party;

(c) used or disclosed with the prior written approval of the disclosing Party;

(d) becomes known to the receiving Party without similar restrictions as to its use or disclosure from a source other than the disclosing Party;

(e) used or disclosed after a period of ten (10) years from the date of termination of this Agreement;

(f) becomes known pursuant to judicial action or Governmental regulations or requirements, provided that the recipient of such data shall have notified the other Party.

3. Neither the execution of this Agreement, nor the furnishing of any materials hereunder, shall be construed as granting, either expressly or by implication, estoppel or otherwise, any license under any invention or patent now or hereafter owned by or controlled by the Party furnishing the materials.

4. No rights or obligations other than those expressly recited herein are to be implied by this Agreement with respect to patents, inventions and data. In providing data pursuant to this Agreement, the Party providing the data makes no representation, either expressed or implied, as to adequacy, sufficiency, or freedom from fault of such data and incurs no responsibility nor obligation whatsoever by reason thereof; and the furnishing of such data shall not convey any rights or license with respect to such data.

5. Nothing in this Agreement shall grant to either Party the right to make commitments of any kind for or on behalf of the other Party without the prior written consent of the other Party.

6. If a contractual relationship results from discussions between Solar and Capstone, the contract or purchase order will authorize Solar to disclose information to other parties which have a need to know after Solar ensures that a nondisclosure agreement such as this Agreement is in place with such parties. Similarly, such contract or purchase order will authorize Capstone to disclose information to other parties which have a need to know after Capstone ensures that a nondisclosure agreement such as this Agreement is in place with such parties.

7. This Agreement may be terminated (a) by either Party giving thirty (30) days

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written notice of its intention to terminate to the other Party; or (b) the Agreement shall automatically terminate \*\* from the date of acceptance; provided, however, that when the Agreement terminates, the obligations not to use and not to disclose proprietary information exchanged hereunder shall continue for the period specified hereinabove.

8. All modifications to this Agreement shall be in writing and signed by duly authorized representatives of both corporations.

9. All notices and information shall be addressed as follows:

If to Capstone:

Capstone Turbine Corp.  
6025 Yolanda Avenue  
Tarzana, CA 91356

Attention: R. James Wensley  
President and Chief Executive Officer

With a copy to:

Richard Harroch  
Orrick, Harrington & Sutcliffe

400 Salsome Street  
San Francisco, CA 94111

If to Solar:

Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, CA 92101

Attention: Manager, Recuperator Programs

With a copy to:

General Counsel  
Legal Department  
Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, CA 92101

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10. *Return of Proprietary Information.* All proprietary information disclosed to the receiving Party shall remain the property of the disclosing Party within thirty (30) days of any termination of this Agreement or upon request at any time by the disclosing Party, the receiving Party agrees to immediately return all proprietary information and all copies to the disclosing Party with a written statement that the foregoing has been accomplished.

11. *Notification and Injunctive Relief.* If either Party, inadvertently or otherwise, makes an unauthorized disclosure of the other Party's proprietary information to a third party, the violating Party shall immediately take every reasonable action to recover the improperly disclosed proprietary information, execute a retroactive protective agreement with the unauthorized third party if possible and immediately notify the Party whose data was improperly disclosed ("Injured Party") and provide complete information about the unauthorized disclosure and the corrective measures being taken. The Parties agree that monetary damages are inadequate for any material breach involving an unauthorized disclosure when the injured Party reasonably believes said breach will cause it to suffer significant business harm. If the Injured Party believes, based on the facts, it will suffer material harm from the unauthorized disclosure and the corrective measures being taken by the violating Party are inadequate to mitigate the harm, the Parties agree the Injured Party shall be entitled to prompt injunctive relief. Both Parties' other legal and equitable remedies and defenses remain unchanged by this provision.

12. Each Party reserves the right to change its designation of authorized representative, should circumstances so require, and to notify the other Party, in writing of any such changes.

13. (a) All technical information and ideas relating to any proprietary information disclosed hereunder shall be in writing and will be identified, in writing, as being proprietary information.

(b) Oral communications which are considered proprietary by the originating Party and so identified shall be reduced to writing within thirty (30) days and shall contain a notice thereon to the effect that any disclosure and use shall be subject to the terms and conditions of this present Agreement. Such orally disclosed information shall be given the protection afforded proprietary information hereunder during such thirty (30) day period.

(c) All copies of proprietary information shall contain a similar identification.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California as if made in California for performance entirely within the State of California.

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15. This Agreement constitutes the entire agreement between the Parties

with respect to the subject matter hereof, supersedes all prior oral or written agreements regarding the subject matter hereof, and cannot be changed or terminated except by a writing signed by both Parties.

16. If any provision of this Agreement is held illegal, invalid or unenforceable under present or future state or federal laws, or rules and regulations promulgated thereunder, effective during the term hereof, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be automatically as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

17. This Agreement is not assignable or transferable without the prior written consent of each Party, which consent may be withheld for any reason.

18. Nothing herein shall be construed as a grant of a license or conveyance of any rights under any discoveries, inventions, patents, trade secrets, copyrights, industrial property rights or know-how belonging to any Party hereto.

19. This Agreement shall not constitute, create, give effect to or otherwise imply a teaming, joint venture, leader-follower or other formal business relationship. Further, nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of the Parties. No Party shall be liable to the other for any of the costs, expenses, risks, or liabilities arising out of the other Party's efforts in connection with this Agreement.

20. Each Party to this Agreement has had the opportunity to review the Agreement with legal counsel. This Agreement shall not be construed or interpreted against either Party on the basis that such Party drafted or authorized a particular provision, parts of, or the entirety of this Agreement.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

CAPSTONE TURBINE CORP.

SOLAR TURBINES INCORPORATED

By: /s/ R. James Wensley

By: /s/ David Esbeck

Printed

Printed

Name: R. James Wensley

Name: David Esbeck

Title: President

Title: V.P. Engineering

Date: June 13, 1996

Date: June 6, 1996

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EXHIBIT D  
TERMS OF SALE - PRIMARY SURFACE RECUPERATOR

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SOLAR TURBINES INCORPORATED

-----  
DATE

LICENSE AGREEMENT

This License Agreement ("Agreement") is effective as of August 25, 1997 (the "Effective Date") by and between Solar Turbines Incorporated, a Delaware corporation whose principal address is 2200 Pacific Highway, San Diego, California 92186-5376 ("Solar") and Capstone Turbine Corporation, a California corporation whose principal address is 6025 Yolanda Avenue, Tarzana, California 91356 ("Capstone").

WHEREAS, Solar owns certain intellectual property related to the design, use and manufacture of primary surface recuperators (PSRs); and

WHEREAS, Capstone currently manufactures and sells Microturbines incorporating PSRs designed by and purchased from Solar; and

WHEREAS, Capstone desires to have a license to Solar's Intellectual Property (as defined below) to manufacture and modify PSRs for incorporation into Capstone's Microturbines; and

WHEREAS, Solar is willing to grant Capstone a license to such Intellectual Property on the following terms and conditions;

NOW, THEREFORE, in consideration of the foregoing premises, the terms and conditions specified herein, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1.0 DEFINITIONS

1.1 "Capstone Special Order PSR" shall mean (i) any PSR manufactured according to Capstone's requirements and specifications as listed in the attached Exhibit A to this Agreement including such PSR as may be modified from time to time, (ii) any development PSR (which such development PSR shall be added to Exhibit A), including such development PSR as may be modified from time to time, and (iii) any similar PSR capable of direct replacement for the PSRs identified in Exhibit A to this Agreement, as such Exhibit may be amended from time to time by the parties to include development PSR models.

1.2 "Licensed Product" shall mean (i) PSRs incorporating Solar Intellectual Property and manufactured by or on behalf of Capstone for use in Microturbines, excluding PSRs supplied to Capstone by Solar, and (ii) any modification, improvement, or derivation of Capstone Special Order PSRs manufactured by or on behalf of Capstone, excluding PSRs supplied to Capstone by Solar.

1.3 "Microturbine" shall mean an individual turbogenerator unit \*\* output power.

1.4 "Solar's Houston Facility" shall mean that part of the Solar manufacturing facility located in Houston, Texas which utilizes the Phase II Equipment (as defined in the Alliance Agreement of even date herewith) for manufacturing PSRs suitable for use in Microturbines.

1.5 "Solar Technology" shall mean all information in Solar's possession on the Election Date (as defined in Paragraph 2.1), with the right to disclose to Capstone, and relating to the manufacture and use of PSRs, including for example, but not by way of limitations, trade secrets, proprietary information, manufacturing drawings, blueprints, specifications, parts and materials lists, tolerances, preferred vendor lists, test and performance parameters, and other technical expertise necessary for the manufacture of PSRs.

1.6 "Solar Patents" shall mean patents (i) now or in the future owned or controlled by Solar or its subsidiaries, or (ii) under which and to the extent to which and subject to the conditions under which Solar or its Subsidiaries may have during the term of this Agreement, the right to grant licenses of the scope granted herein, such patents relating to the design, manufacture, or use of PSRs

and based on patent applications having an effective filing date on or prior to one (1) month after the Election Date, as defined in Paragraph 2.1.

1.7 "Solar Intellectual Property" shall mean Solar Technology and Solar Patents.

1.8 "Capstone Patents" shall mean patents (i) now or in the future owned or controlled by Capstone or its Subsidiaries, or (ii) under which and to the extent to which and subject to the conditions under which Capstone or its subsidiaries may have during the term of this Agreement the right to grant licenses of the scope granted herein, such patents claiming inventions substantially based on Solar Technology and being based on patent applications having an effective filing date during the period starting on the Effective Date pursuant to Paragraph 2.1 and ending on the termination or expiration of this Agreement.

1.9 "Subsidiary" shall mean any corporation, company or other entity of which one hundred percent (100%) of the outstanding shares of stock entitled to vote for the election of directors is now or hereafter owned or controlled by either party hereto, directly or indirectly, except that Caterpillar Inc., parent of Solar, is included within the definition of "Subsidiary."

## 2.0 EXERCISE OF LICENSE RIGHTS

2.1 The license rights granted under this License Agreement are conditioned upon, and do not become effective until, Capstone provides written notice to Solar of Capstone's election to exercise the rights granted hereunder. Capstone's right to provide such written notice to Solar is unconditional. In no event, however, shall the date upon which Capstone provides such written notice to Solar (the "Election Date") occur later than \*\* of the Effective Date.

2.2 Upon election of the license rights granted by Solar hereunder, Capstone may announce and/or publicize that Licensed Products included in Capstone's Microturbines and sold by or on behalf of Capstone are manufactured pursuant to license rights granted to Capstone by Solar.

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## 3.0 GRANT

3.1 Subject to and in consideration of the undertakings by Capstone set forth in Section 4.0 of this License Agreement, and upon exercise of the license rights pursuant to Paragraph 2.1 of this License Agreement, Solar hereby agrees to grant Capstone, a \*\* license under Solar Intellectual Property, as defined in Section 1.0 of this License Agreement (i) to make, use, sell, lease or otherwise dispose of Licensed Product incorporated into Microturbines made, used, sold, leased or otherwise disposed of by Capstone, individually or as incorporated into larger turbogenerator systems; (ii) to make, use, sell, lease or otherwise dispose of Licensed Product as spares for or for repair and/or maintenance of such Microturbines and (iii) to use and modify Solar Intellectual Property for the design and manufacture of Licensed Product for use in Microturbines.

3.2 The rights to make granted to Capstone under Paragraph 3.1 include the right for Capstone to have Licensed Product made by a third party, only if (i) Capstone first offers to Solar a right of first refusal to produce the quantities concerned and Solar declines such right or (ii) Solar informs Capstone in writing that it has discontinued manufacture of Capstone Special Order PSRs.

3.3 Capstone hereby grants and agrees to grant to Solar a non-exclusive, non-transferable, non-sublicensable except as provided herein, royalty-free world-wide license under Capstone Patents to make, use, sell, lease or otherwise dispose of PSRs.

## 4.0 CONSIDERATION

4.1 Capstone shall pay to Solar a royalty for each Licensed Product manufactured pursuant to the license grants in Section 3.0 and shipped by Capstone under this Agreement in accordance with the Royalty Payment Schedule

attached hereto as Exhibit "B". Such Licensed Product is delivered on an ex-works or FOB basis to any third party, whether an independent third party or a Capstone affiliate.

4.2 If, on the thirtieth (30th) month anniversary of the Election Date, the total cumulative amount of royalties paid to Solar under Paragraph 4.1 does not equal or exceed \*\* Capstone shall deliver to Solar a Lump Sum Royalty equivalent to the shortfall between the total cumulative amount of royalties paid to Solar by the 30th month anniversary of the Election Date and \*\*. The Lump Sum Royalty shall be paid to Solar within thirty (30) days of the 30th month anniversary of the Election Date. The Lump Sum Royalty shall then be credited toward Capstone's on-going royalty obligations until such time as Capstone's total cumulative royalties paid Solar shall have exceeded \*\*, after which time, Capstone shall continue to pay royalties to Solar under the provisions of Paragraph 4.1.

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#### 5.0 PRODUCT-KNOW-HOW AND TECHNOLOGY TRANSFER

5.1 To enable Capstone to manufacture Licensed Product under the provisions of Section 3, Solar undertakes that upon notice of Capstone's election to exercise the rights granted by this Agreement pursuant to Paragraph 2.1, Solar shall:

A) Promptly transfer to Capstone, starting within thirty (30) days from the Election Date, all Solar Technology that is in tangible form related to the manufacture and use of Capstone Special Order PSRs; and

B) Provide Capstone with technical assistance (including but not limited to technical expertise, repair and maintenance of equipment and tooling, employee training, consulting services including the temporary assignment of Solar engineers selected by Solar for time periods reasonably chosen by Solar and having relevant qualifications and experience to a facility designated by Capstone) for \*\* Capstone has the obligation to apply appropriate and qualified resources to the task of transferring Solar Technology. Solar also will cooperate with and actively assist Capstone in procuring equipment and tooling for manufacturing Licensed Product from Solar or Solar's suppliers, including suppliers identified on Solar's preferred vendor lists during the term of this Agreement. Capstone agrees not to sell such tooling and equipment containing Solar Technology to a third party.

C) Provide access to a reasonable number of Capstone engineers to Solar's Houston Facility during \*\* to afford Capstone the opportunity to increase knowledge about PSR manufacturing sufficient for a reasonable person to implement the license granted under Section 3.0, and afford Capstone not only the opportunity to participate in decisions concerning production capacity but also to gain sufficient knowledge to estimate for itself the cost of manufacturing PSRs. Solar Technology will have been considered completely transferred to Capstone if, after a production run by Capstone \*\* of the PSRs pass final pressure check and Capstone's labor hours per PSR are within \*\* of the Election Date actuals.

D) In the event of a dispute regarding the timeliness or sufficiency of information or assistance provided by Solar to Capstone under this Paragraph 5.1, the parties will attempt to resolve such dispute under the dispute resolution provisions of Paragraph 14.4. During the pendency of such dispute resolution proceedings, any and all royalties becoming due and payable to Solar shall be placed in an escrow account until such time as the dispute is resolved. If the dispute requires arbitration, the Arbitrators shall include in their judgment a determination as to how the escrowed royalties should be disbursed, including awarding the full amount of the escrowed royalties to one or the other party or, if appropriate, a pro-rata disbursement of the royalties to one or the other party or, if appropriate, a pro-rata disbursement of the royalties to both Solar and Capstone.

E) Solar is not required to transfer any detailed knowledge of the Solar Patents other than that information which is publicly known or that information that is necessary to comply with the requirements of this Paragraph 5.1 or to manufacture Capstone Special Order PSRs.

5.3 Capstone shall own all rights in any inventions (whether or not patentable) and in any patents thereon relating to improvements to Solar Technology made by Capstone employees.

5.4 Each party hereby designates the individual identified below as its Program Manager with responsibility for scheduling, coordinating and overseeing the implementation of the party's duties and obligations under the provisions of this Agreement.

Capstone's Program Manager: \*\*

Solar's Program Manager: \*\*

#### 6.0 RECORDS AND AUDIT

6.1 Capstone agrees to render to Solar within thirty (30) days following March 31, June 30, September 30, and December 31 of each year, a quarterly statement setting forth the number of Licensed Products upon which royalties are to be paid under the provisions of Paragraph 4.1, and an electronic fund transfer to Solar for the royalty due. All such reports are to be mailed to Solar to the attention of the persons specified in and in the manner specified in Paragraph 14.2.

6.2 Capstone agrees to keep and maintain a set of accounting records in accordance with GAAP for a period of \*\* after any period during which royalties are due, which records shall be in sufficient detail to enable Solar to audit Capstone's determination of the royalties payable under the license and to verify compliance with other terms of the license relevant to royalty payment.

6.3 Capstone agrees to keep regular books of account which shall be open to all reasonable business hours for inspection by independent certified public accountants selected by Solar and reasonably acceptable to Capstone. Audit personnel may review Capstone's accounting firms' work papers and discuss with the firm the result of any audit including, but not limited to: the basis of judgments reached and the appropriateness of royalty payments made, provided, however, Solar provides three (3) business days notice of such audit. In addition, Solar may have such an audit performed at any time within one (1) year following termination of this Agreement. Any audit expenses incurred shall be borne by Solar, except if the results of the audit reveal \*\* then Capstone shall reimburse Solar for all such audit costs.

6.4 If Capstone fails to make any required payment under this Section 6.0 on or before the required date, interest equal to \*\* of the amount otherwise due shall be paid by Capstone for each month or portion thereof that the payment is late. If such interest rate exceeds the maximum legal rate in such jurisdiction where a claim therefor is being asserted, the interest rate shall be reduced to such maximum legal rate permitted in such jurisdiction.

#### 7.0 TERM AND TERMINATION

7.1 Unless sooner terminated as provided for by this Agreement, this Agreement shall remain in force and effect for a period of \*\* whichever period ends sooner. The licenses granted in Section 3.0 to each party shall be paid up for the life of Capstone Patents and Solar Intellectual Property at the expiration, not the termination of this Agreement.

7.2 Termination or expiration of this Agreement shall not affect Capstone's obligations to make payments and reports as provided herein with respect to Licensed Product shipped or otherwise disposed of prior to termination or expiration of this Agreement, and all provisions of this Agreement pertaining to such reports and payments shall survive such termination or expiration and continue in full force and effect.

7.3 If either party materially breaches this Agreement, upon written notice to the defaulting party specifying such breach, the defaulting party shall have thirty (30) days after such notice to remedy such breach or to implement a program, reasonably satisfactory to the party not in default, to correct such breach. If such material breach remains uncured after thirty (30) days either party may initiate the dispute resolution proceedings provided for in Paragraph 14.4. However, if Capstone refuses to pay undisputed royalties when due after written notice from Solar with a thirty (30) day opportunity to cure, Solar may give Capstone written notice of termination of this Agreement.

7.4 In the event Solar provides Capstone written notice that Solar is ceasing the manufacture of PSRs other for Solar or Caterpillar, Inc., or other events have occurred that would inhibit the effective transfer of technology from Solar to Capstone shall have \*\* in which to elect to exercise the rights granted under this Agreement per the provisions of Section 2.0. If Capstone does not elect to exercise the rights within \*\* this License Agreement may be terminated by Solar. If Capstone elects to exercise the rights granted under this Agreement within \*\* Solar shall fully cooperate and assist in the Product Know-How and Technology Transfer provided for in Section 5.0 and the other obligations provided for in this Agreement and the Product Know-How and Technology Transfer obligations under Section 5.0 of this Agreement shall begin \*\* after Capstone elects to exercise the rights.

#### 8.0 WARRANTIES AND DISCLAIMERS

8.1 Each party represents and warrants that it has the right and power to enter into this Agreement. Solar represents and warrants that it has the authority and right to grant the licenses and rights granted herein, and further that it has no knowledge of any patents, or other impediments to Capstone's quiet enjoyment of the benefits of the licenses granted by Solar.

8.2 Neither party shall be liable to the other for any lost profits, lost revenues, losses or indirect, incidental, consequential, special or exemplary damages arising out of entry into or performance or lack of performance under this Agreement.

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8.3 Nothing in this Agreement shall be construed as

- A) a requirement that either party shall file or prosecute any patent application, secure any patent, maintain any patent in force, or notify the other party of any action or failure to act with respect to any patent application; or
- B) granting by implication estoppel or otherwise, any license or rights under patents of either party beyond those licenses or rights expressly granted under this Agreement; or
- C) an obligation to furnish any technical information other than specified under this Agreement.

8.4 ALL SOLAR TECHNOLOGY TRANSFERRED UNDER THIS AGREEMENT IS TRANSFERRED "AS IS" AND THE TRANSFEROR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE TRANSFERRED TECHNOLOGY, INCLUDING WITHOUT LIMITATION ANY WARRANTIES OF DESIGN, MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE, OR WARRANTIES ARISING FROM A COURSE OF DEALING, USAGE OR TRADE PRACTICE. NOTHING IN THIS AGREEMENT SHALL BE DEEMED TO CONSTITUTE A REPRESENTATION OR WARRANTY BY SOLAR OF THE ABILITY OF CAPSTONE TO MANUFACTURE OR SELL PRODUCTS.

8.5 Nothing in this Agreement shall (a) impose any restriction on either party from carrying out independent research and development activities in any field, (b) in relation to the results of any such independent research and development activities of one party, give rise to any ownership right or claim by the other party; nor (c) restrict either party in the exploitation in any manner of the results of its independent research and development activities.

8.6 This Section 8.0 shall survive any expiration or termination of this Agreement.

8.7 Neither Solar nor Capstone make and each hereby disclaims any and all expenses or implied, warranties as to the validity or enforceability of any Solar Patents and/or Capstone Patents, respectively.

#### 9.0 PROPRIETARY INFORMATION

9.1 Confidential Information. The parties hereby ratify and incorporate that certain Nondisclosure Agreement, executed by the parties in June 1996 (the "Nondisclosure Agreement") and attached hereto as Exhibit "C" in the Alliance Agreement as modified by this Agreement, to wit:

The first sentence of section 1 of the Nondisclosure Agreement is amended to read as follows: "Each Party will use its best efforts to keep in confidence, and not use or disclose to any person or persons, proprietary information disclosed to it under this Agreement, except for the manufacture and sale of Capstone Special Order PSRs under the Alliance

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Agreement between the parties dated August 25, 1997 and for the manufacture and sale of Licensed Product under the License Agreement between the parties dated August 25, 1997"

Section 2(e) of the Nondisclosure Agreement is amended to read as follows: "use or disclosed after a period of ten (10) years from the date of the disclosure;"

Section 7 of the Nondisclosure Agreement is amended to read as follows: "This Agreement may be terminated (a) by either Party giving thirty (30) days written notice of its intention to terminate to the other Party; or (b) the Agreement shall automatically terminate twelve (12) years from August 25, 1997; provided, however, that when the Agreement terminates, the obligations not to use and not to disclose proprietary information exchanged hereunder shall continue for the period specified hereinabove."

9.2 Nothing in this Agreement shall be construed as obligating either party to disclose proprietary information to the other party or as granting to or conferring upon the other party, expressly or impliedly, any rights or licenses to the party's proprietary information other than those rights specifically granted in this Agreement.

#### 10.0 TRADEMARKS

10.1 Capstone agrees that it will not advertise, or otherwise indicate, that any Capstone Special Order PSRs or Licensed Product are sponsored, endorsed, or otherwise guaranteed by Solar, and shall not designate, identify or otherwise label any Capstone Special Order PSRs or Licensed Product with any trademark, registered or unregistered, presently owned or hereafter acquired by Solar in any country, nor with any translations thereof, nor words or marks confusingly similar thereto.

#### 11.0 EXPORT OF TECHNICAL DATA

11.1 Both parties shall adhere to the U.S. Export Administration Laws and Regulations and shall not export or re-export any technical data or the direct product of such technical data to any proscribed country listed in the U.S. Export Administration Regulations or other Government Regulations unless properly authorized by the U.S. Government.

#### 12.0 THIRD PARTY INFRINGEMENT

12.1 Upon demonstration by Capstone of evidence of infringement of any Solar Patent by a third party, the parties shall promptly discuss what action, if any, shall be taken, including (i) institution of an action by Solar to enjoin or preclude such infringement; (ii) licensing of such third party for value; or (iii) an equitable adjustment of the royalty payments due under this Agreement.

### 13.0 INDEMNIFICATION

13.1 If any claim or action is brought against Capstone based upon an allegation that use of the Solar Technology by Capstone within the scope of the license grant of Section 3.0 infringes any patent rights of any third party, Solar shall defend Capstone against any and all liability, claims and expenses arising out of any such claim or action, up to a limit of \*\* of the royalties paid by Capstone at the time the claim or action is brought, provided that Capstone (i) gives Solar prompt notice of such claim or action; (ii) cooperates with Solar, at Solar's expense, in the defense of such claim or action, and (iii) gives Solar the right to control the defense and settlement of any such claim or action as long as such settlement does not adversely affect Capstone's rights under this Agreement.

13.2 Solar shall have no liability for any claim based on infringement or violation of any third party patent rights arising from the design, manufacture, use or sale by Capstone or such design, manufacture, use or sale authorized by Capstone of any Licensed Product if such infringement or violation would have occurred without the use of, Solar Technology provided to Capstone under this Agreement.

13.3 The terms and conditions of this Agreement are confidential and subject to the terms of the Nondisclosure Agreement, Exhibit C.

13.4 Capstone agrees to defend, indemnify and hold Solar, its directors, officers, and employees harmless against all liabilities, demands, damages, expenses, or losses arising out of the manufacture, design, use, or sale of any Licensed Product by Capstone or its affiliates, subsidiaries or transferees or use by Capstone or its affiliates, subsidiaries or transferees of any Solar Intellectual Property, or out of any manufacture, design, use, sale, or other disposition by Capstone, its affiliates, subsidiaries or transferees of product incorporating such Licensed Product or Solar Intellectual Property, except for claims that are attributable to Solar's gross negligence or intentional misconduct, provided that Solar (i) gives Capstone prompt notice of such claim or action; (ii) cooperates with Capstone, at Capstone's expense, in the defense of such claim or action, and (iii) gives Capstone the right to control the defense and settlement of any such claim or action as long as such settlement does not adversely affect Solar. After the Election Date, Capstone at Solar's written request, must demonstrate that Capstone has adequate means of financial assurance, up to \*\* with regard to its indemnity of Solar under this paragraph 13.4. The maximum cumulative liability of Capstone under this paragraph is \*\* .

### 14.0 GENERAL TERMS AND CONDITIONS

14.1 This Agreement shall inure to the benefit of and be binding upon all successors and assigns of Capstone and Solar although neither party shall assign this Agreement or any part thereof without the prior written consent of the other party except (i) that it may be assigned by either party to a Subsidiary of the assigning party without the other party's consent; and (ii) that it may be assigned to a purchaser of substantially all the assets of Capstone, provided such purchaser is not actively engaged in the business of manufacturing or selling PSRs, or manufacturing or selling individual gas turbines \*\* or greater output power. Notwithstanding any provision

contained in this Agreement to the contrary, Capstone may only sublicense a party other than a Subsidiary with Solar's prior written consent, and in all events, each sublicense, if granted, shall provide Solar with all rights and benefits it has under this Agreement against such sublicensee. Notwithstanding any provision contained in this Agreement to the contrary, in the event Solar assigns or sublicenses this Agreement to a third party, Solar shall remain responsible for full performance of the obligations of such assignee or sublicensee arising under this Agreement.

14.2 Notices. All notices, requests, demands and elections under this Agreement, other than routine operational communications, shall be in writing and shall be deemed to have been duly given (i) when delivered by hand, (ii)

one (1) day after being given to an express courier with a reliable system for tracking delivery, (iii) when sent by confirmed facsimile with a copy sent by another means specified herein, or (iv) three (3) days after the date of mailing by certified or registered mail, return receipt requested, postage prepaid, and addressed as follows:

To Capstone:

Capstone Turbine Corporation  
6025 Yolanda Avenue  
Tarzana, CA 91356

Attn: Paul Craig  
President and Chief Executive Officer

With a copy to:

Richard Harroch  
Orrick, Herrington & Sutcliff  
400 Sansome Street  
San Francisco, CA 94111

To Solar:

Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, California 92138-5376

Attn: Director, Recuperator Business

With a copy to:

General Counsel  
Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, California 92186

Solar or Capstone may, from time to time, change its address or its designee for notification purposes by giving the other party prior written notice of the new address or the new designee and the date upon which the change shall be effective.

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14.3 Nothing herein contained shall be deemed to create an agency, joint venture or partnership relationship between the parties hereto.

14.4 If a dispute arises under the terms or performance of this Agreement, unless by mutual consent the parties agree otherwise, the parties shall resolve such dispute as follows:

- A) the parties' respective Program Managers, as provided for in Paragraph 5.4, shall have ten days to attempt resolution; if the Program Managers are unable to resolve the dispute themselves;
- B) each Program Manager shall present a written statement of the dispute and a proposed resolution for consideration at a meeting of a senior executive officer from each company the meeting to be held within fifteen days from the expiration of the ten day period contemplated in the preceding sub-paragraph; and
- C) if the senior executive officers cannot resolve the dispute within ten days from the meeting date specified in the preceding sub-paragraph, the parties agree to submit such dispute to arbitration before a neutral three member board of arbitrators under the provisions of Paragraph 14.5.

14.5 Subject to the provisions of Paragraph 14.4 of this Agreement, any claim or dispute arising hereunder that has not been resolved by the parties shall be determined by arbitration in accordance with the Commercial Arbitration Rules then in effect of the American Arbitration Association in San Diego, California; provided that no demand for arbitration shall be instituted after the date after which legal proceedings on the same claim would have been barred by the applicable statute of limitations. The party requesting arbitration shall appoint one independent, neutral arbitrator in writing and the responding party shall appoint one independent, neutral arbitrator in writing within fifteen (15) days thereafter. The two arbitrators so selected shall then

appoint a third arbitrator within fifteen (15) days thereafter. The award rendered in such arbitration may provide for equitable remedies, an accounting and/or reimbursement for attorneys', accountants' or consultants' fees, as the arbitrators shall see fit. Such award shall be final, and judgment on it may be entered in or enforced by any court, state, federal or foreign, having jurisdiction thereover. This provision shall not preclude the impleading or joining of one of the parties hereto by the other in an action brought by a third party and all matters with respect thereto shall be decided by the court or body deciding that action. Any party may apply to an appropriate court of law for a preliminary injunction, attachment or other similar remedy available to it in aid of the arbitration proceeding provided for herein. In the arbitration each party shall be entitled to demand production of documents and other items from any other party hereto, in accordance with the terms of Rule 34 of the Federal Rules of Civil Procedure. Any disputes concerning such demand shall be determined by the arbitrator(s), and any such determination shall be binding on the parties.

14.6 For a period of \*\* from the Election Date, Solar and Capstone agree not to solicit for employment purposes, any employee of the other party who has had access to that other party's proprietary information utilized in implementing this Agreement.

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14.7 This Agreement shall be governed by and construed in accordance with the laws of the State of California as if made in California for performance entirely within the State of California.

14.8 This Agreement including Exhibits A through C constitute the entire agreement between the parties with respect to the subject matter hereof, supersedes all prior oral or written agreements regarding the subject matter hereof, and cannot be changed or terminated except by a writing signed by both parties.

14.9 For any matter or claim to be considered by a court under this Agreement the parties consent to the exclusive jurisdiction of the courts of the United States of America and the State of California and any subdivision thereof. Any injunctions, orders, or judgments entered, issued, or granted from any courts having jurisdiction hereunder shall be enforceable in the State of California and in any state or country wherein lie the offices and/or assets of the party against whom the said injunction, order or judgment is entered.

14.10 If any provision of this Agreement is held illegal, invalid or unenforceable under present or future state or federal laws, or rules and regulations promulgated thereunder, effective during the term hereof, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be automatically as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

14.11 Nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of the parties. No party shall be liable to the other for any of the costs, expenses, risks, or liabilities arising out of the other party's efforts in connection with this Agreement.

14.12 Each party to this Agreement has had the opportunity to review the Agreement with legal counsel. This Agreement shall not be construed or interpreted against either party on the basis that such party drafted or authored a particular provision, parts of, or the entirety of this Agreement.

14.13 The section headings used in this Agreement are inserted for convenience of reference only and are not intended to be a part of or to affect the meaning or interpretation of this Agreement.

14.14 Each and every right, power, and remedy herein specifically given to either party or otherwise in this Agreement shall be cumulative and shall be in addition to every other right, power, and remedy herein specifically given or

now or hereafter existing at law, in equity or by statute, and the exercise or the beginning of the exercise of any power or remedy shall not be construed to be a waiver of the right to exercise at the same time or thereafter any such right, power, or remedy.

14.15 Neither party to this Agreement shall be liable for any default or delay in the performance of its obligations under this Agreement (except for the duty to pay for royalties hereunder) if and to the extent such default or delay is caused, directly or indirectly, by fire, flood, earthquake, elements

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of nature or acts of God, riots, civil disorders, rebellions or revolutions, or any other cause beyond the reasonable control of such party (including the inability to receive raw materials from a supplier), provided the non-performing party is without fault in causing such default or delay, and such default or delay could not have been prevented by reasonable precautions nor reasonably be circumvented by the non-performing party through the use of alternate sources, work-around plans or other means. In such event, the non-performing party shall be excused from any further performance or observance of the obligation(s) so affected for as long as such circumstances prevail and such party continues to use reasonable efforts to recommence performance or observance of the obligations so affected for as long as such circumstances prevail. Notwithstanding the foregoing, a party shall not be entitled to the benefits of this Section 14.15 unless any party so delayed in its performance promptly notifies the party to whom performance is due by telephone, radio, messenger or other available means (to be confirmed in writing within two (2) working days of the inception of such delay) and describe at a reasonable level of detail the circumstances causing such delay.

IN WITNESS WHEREOF, the parties caused this Agreement to be duly executed on the day and year indicated below to be effective as of the date indicated above.

CAPSTONE TURBINE CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ PAUL CRAIG

By: /s/

Title: CEO/President

Title: Vice President, Engineering

Date: August 25, 1997

Date: 22 Aug '97

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EXHIBIT A - PRODUCTS COVERED BY AGREEMENT

<TABLE>

<CAPTION>

SELLER'S P/N	SPECIFICATION	DESCRIPTION
<S> 203210-100	<C> TBD	<C> Recuperator Assembly **

</TABLE>

/s/ PAUL CRAIG

August 25, 1997

CAPSTONE TURBINE CORPORATION

DATE

/s/ DWE

22 Aug '97

SOLAR TURBINES INCORPORATED

DATE

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EXHIBIT B - ROYALTY RATES

<TABLE>

<CAPTION>

ROYALTY/LICENSED PRODUCT (PER UNIT)	CUMULATIVE PRODUCTION (UNITS) FOR CAPSTONE SPECIAL ORDER PSRS
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<S>  
[\*\*]  
</TABLE>

<C>  
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/s/ PAUL CRAIG

August 25, 1997

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CAPSTONE TURBINE CORPORATION

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DATE

/s/ DWE

22 Aug '97

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SOLAR TURBINES INCORPORATED

-----  
DATE

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EXHIBIT C

NON DISCLOSURE AGREEMENT

NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement ("Agreement") is made effective as of June 1, 1996 by and between Solar Turbines Incorporated, a Delaware corporation having its principal office in San Diego, California ("Solar") and Capstone Turbine Corp., a Delaware corporation having its principal office in Tarzana, California ("Capstone").

WHEREAS, Solar is engaged in the business of designing, manufacturing and selling industrial turbomachinery, including gas turbine engines and related systems ("Solar Products"). Solar has developed certain unique primary surface recuperator and interconnection (interface) technology ("Solar Recuperator Technology") which it owns and may apply to the design and application of recuperators; and

WHEREAS, Capstone is actively engaged in the development of gas turbines and recuperated gas turbines in the \*\* and

WHEREAS, Capstone is actively engaged in the development of major components of both gas turbines and recuperated gas turbines in this size range; and

WHEREAS, these components include turbines, compressors, air bearings, combustors, permanent magnet alternators, electronic convertors, and recuperators ("Capstone Products"); and

WHEREAS, Solar owns and has the unencumbered right to disclose to Capstone certain proprietary information relating to the Solar Recuperator Technology and Solar Products and Capstone owns and has the unencumbered right to disclose to Solar certain proprietary information relating to Capstone Products (collectively, such information from each party is referred to herein as "Proprietary Information"); and

WHEREAS, each party desires to disclose Proprietary Information to the other party for the limited purpose of evaluating whether the parties may desire to work together on projects relating to Solar Recuperator Technology, Capstone Products, Solar Products and other matters, and should a purchase order issue or contract be entered into, then for work or services performed thereunder; and

WHEREAS, Solar and Capstone executed a Nondisclosure Agreement, dated July 11, 1994, when Capstone was operating under the name "NoMac Energy Systems, Inc."; and

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WHEREAS, the previous Nondisclosure Agreement between the parties, dated July 11, 1994, is terminated effective May 31, 1996 and this Agreement shall become effective June 1, 1996; and

WHEREAS, as used herein, "Party", "receiving party" and "disclosing party" means each and every party who may receive or disclose Proprietary Information regardless of the use of the singular rather than the plural form "parties".

NOW, THEREFORE, in consideration of the foregoing premises, the following promises, covenants and undertakings, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, intending to be legally bound, the parties agree as follows:

1. Each Party will use its best efforts to keep in confidence, and not use or disclose to any person or persons, proprietary information disclosed to it under this Agreement.

Each Party recognizes that any disclosure of proprietary information would substantially injure the disclosing Party's business, impair its investments and goodwill and jeopardize its relationships with its buyers and customers. In order to protect such proprietary information, the Parties agree:

(a) to hold all proprietary information in safekeeping and in strict confidence and not to disclose proprietary information to any third parties or permit use of all such information to the disadvantage of the disclosing Party;

(b) to treat all proprietary information with at least the same degree of care with which each treats and protects its own proprietary information which it does not wish to disclose to third parties, which in any event shall be reasonable under the circumstances;

(c) to limit the access of all proprietary information to only those employees within its organization who require the proprietary information in performing the limited purpose of this Agreement, and to inform each of its employees of the provisions of this agreement; and

(d) to use proprietary information only to the extent necessary for performing the limited purposes of this Agreement.

2. Exceptions. The restrictions contained in Section 1 shall not apply to any proprietary information if the same is:

(a) in the public domain at the time of disclosure, or is subsequently made

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available by the disclosing Party to the general public with restriction;

(b) known by the receiving Party at the time of disclosure, as evidenced by appropriate documentation, or independently developed, as evidenced by appropriate documentation, by the receiving Party;

(c) used or disclosed with the prior written approval of the disclosing Party;

(d) becomes known to the receiving Party without similar restrictions as to its use or disclosure from a source other than the disclosing Party;

(e) used or disclosed after a period of ten (10) years from the date of termination of this Agreement;

(f) becomes known pursuant to judicial action or Governmental regulations or requirements, provided that the recipient of such data shall have notified the other Party.

3. Neither the execution of this Agreement, nor the furnishing of any materials hereunder, shall be construed as granting, either expressly or by implication, estoppel or otherwise, any license under any invention or patent now or hereafter owned by or controlled by the Party furnishing the materials.

4. No rights or obligations other than those expressly recited herein are to be implied by this Agreement with respect to patents, inventions and data. In providing data pursuant to this Agreement, the Party providing the data makes no representation, either expressed or implied, as to adequacy,

sufficiency, or freedom from fault of such data and incurs no responsibility nor obligation whatsoever by reason thereof; and the furnishing of such data shall not convey any rights or license with respect to such data.

5. Nothing in this Agreement shall grant to either Party the right to make commitments of any kind for or on behalf of the other Party without the prior written consent of the other Party.

6. Nothing in this Agreement shall grant to either Party the right to make commitments of any kind for or on behalf of the other Party without the prior written consent of the other Party.

6. If a contractual relationship results from discussions between Solar and Capstone, the contract or purchase order will authorize Solar to disclose information to other parties which have a need to know after Solar ensures that a nondisclosure agreement such as this Agreement is in place with such parties. Similarly, such contract or purchase order will authorize Capstone to disclose information to other parties which have a need to know after Capstone ensures that a nondisclosure agreement such as this Agreement is in place with such parties.

7. This Agreement may be terminated (a) by either Party giving thirty (30) days

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written notice of its intention to terminate to the other Party; or (b) the Agreement shall automatically terminate \*\* from the date of acceptance; provided, however, that when the Agreement terminates, the obligations not to use and not to disclose proprietary information exchanged hereunder shall continue for the period specified hereinabove.

8. All modifications to this Agreement shall be in writing and signed by duly authorized representatives of both corporations.

9. All notices and information shall be addressed as follows:

If to Capstone:

Capstone Turbine Corp.  
6025 Yolanda Avenue  
Tarzana, CA 91358

Attention: R. James Wensley  
President and Chief Executive Officer

With a copy to:

Richard Harroch  
Orrick, Harrington & Sutcliffe  
400 Salsome Street  
San Francisco, CA 94111

If to Solar:

Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, CA 92101

Attention: Manager, Recuperator Programs

With a copy to:

General Counsel  
Legal Department  
Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, CA 92101

10. *Return of Proprietary Information.* All proprietary information disclosed to the receiving Party shall remain the property of the disclosing Party within thirty (30) days of any termination of this Agreement or upon request at any time by the disclosing Party, the receiving Party agrees to immediately return all proprietary information and all copies to the disclosing Party with a written statement that the foregoing has been accomplished.

11. *Notification and Injunctive Relief.* If either Party, inadvertently or otherwise, makes an unauthorized disclosure of the other Party's proprietary information to a third party, the violating Party shall immediately take every reasonable action to recover the improperly disclosed proprietary information, execute a retroactive protective agreement with the unauthorized third party if possible and immediately notify the Party whose data was improperly disclosed ("Injured Party") and provide complete information about the unauthorized disclosure and the corrective measures being taken. The Parties agree that monetary damages are inadequate for any material breach involving an unauthorized disclosure when the Injured Party reasonably believes said breach will cause it to suffer significant business harm. If the Injured Party believes, based on the facts, it will suffer material harm from the unauthorized disclosure and the corrective measures being taken by the violating Party are inadequate to mitigate this harm, the Parties agree the Injured Party shall be entitled to prompt injunctive relief. Both Parties' other legal and equitable remedies and defenses remain unchanged by this provision.

12. Each Party reserves the right to change its designation of authorized representative, should circumstances so require, and to notify the other Party, in writing, of any such changes.

13. (a) All technical information and ideas relating to any proprietary information disclosed hereunder shall be in writing and will be identified, in writing, as being proprietary information.

(b) Oral communications which are considered proprietary by the originating Party and so identified shall be reduced to writing within thirty (30) days and shall contain a notice thereon to the effect that any disclosure and use shall be subject to the terms and conditions of this present Agreement. Such orally disclosed information shall be given the protection afforded proprietary information hereunder during such thirty (30) day period.

(c) All copies of proprietary information shall contain a similar identification.

14. This Agreement shall be governed by and construed in accordance with the laws of the State of California as if made in California for performance entirely within the State of California.

15. This Agreement constitutes the entire agreement between the Parties with respect to the subject matter hereof, supersedes all prior oral or written agreements regarding the subject matter hereof, and cannot be changed or terminated except by a writing signed by both Parties.

16. If any provision of this Agreement is held illegal, invalid or unenforceable under present or future state or federal laws, or rules and regulations promulgated thereunder, effective during the term hereof, such provision shall be fully severable, and this Agreement shall be construed and enforced as if such illegal, invalid or unenforceable provision had never comprised a part hereof; and the remaining provisions hereof shall remain in full force and effect and shall not be affected by the illegal, invalid or unenforceable provision or by its severance herefrom. Furthermore, in lieu of such illegal, invalid, or unenforceable provision, there shall be automatically as part of this Agreement a provision similar in terms to such illegal, invalid, or unenforceable provision as may be possible and be legal, valid, and enforceable.

17. This Agreement is not assignable or transferable without the prior written consent of each Party, which consent may be withheld for any reason.

18. Nothing herein shall be construed as a grant of a license or conveyance of any rights under any discoveries, inventions, patents, trade secrets, copyrights, industrial property rights or know-how belonging to any Party hereto.

19. This Agreement shall not constitute, create, give effect to or otherwise imply a teaming, joint venture, leader-follower or other formal business relationship. Further, nothing herein shall be construed as providing for the sharing of profits or losses arising out of the efforts of the Parties. No Party shall be liable to the other for any of the costs, expenses, risks, or liabilities arising out of the other Party's efforts in connection with this Agreement.

20. Each Party to this Agreement has had the opportunity to review the Agreement with legal counsel. This Agreement shall not be construed or interpreted against either Party on the basis that such Party drafted or authorized a particular provision, parts of, or the entirety of this Agreement.

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IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives.

CAPSTONE TURBINE CORP.

SOLAR TURBINES INCORPORATED

By: /s/ R. JAMES WENSLEY

By: /s/ DAVID ESBECK

Printed

Name: R. James Wensley

Printed

Name: David Esbeck

Title: President

Title: V.P. Engineering

Date: June 13, 1996

Date: June 6, 1996

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