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SECURITIES AND EXCHANGE COMMISSION  
Washington, D.C. 20549

FORM 8-K

CURRENT REPORT  
Pursuant to Section 13 or 15(d) of  
The Securities Exchange Act of 1934

Date of Report: August 2, 2000  
(Date of earliest event reported)

CAPSTONE TURBINE CORPORATION  
(exact name of registrant as specified in its charter)

<TABLE>

<CAPTION>

DELAWARE	COMMISSION FILE:	95-4180883
<S>	<C>	<C>
(State or other jurisdiction of incorporation or organization)	001-15957	(I.R.S. Employer Identification No.)

</TABLE>

21211 NORDHOFF STREET, CHATSWORTH, CALIFORNIA 91311  
(Address of Principal executive offices, including zip code)

(818) 734-5300  
(Registrant's telephone number, including area code)

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ITEM 5. OTHER EVENTS.

On August 2, 2000, we entered into two agreements with Solar Turbines Incorporated ("Solar") involving the acquisition of rights held by Solar to manufacture and supply primary surface recuperators used in our microturbine products. Under the Transition Agreement, dated August 2, 2000, we agreed to pay \$9.1 million to Solar as consideration for the buyout of supply rights held by Solar under the Alliance Agreement, dated August 25, 1997, the termination of the Alliance Agreement, and the purchase of certain machine tools used by Solar in the manufacturing of primary surface recuperators supplied to us.

Concurrent with the execution of the Transition Agreement, we entered into an Amended and Restated License Agreement, dated August 2, 2000, which grants to us a non-exclusive, royalty bearing license to use certain intellectual property held by Solar in the manufacturing of primary surface recuperators. The Amended and Restated License Agreement supersedes the License Agreement, dated August 22, 1997, between the parties.

ITEM 7. FINANCIAL STATEMENTS, PRO FORMA FINANCIAL INFORMATION AND EXHIBITS.

(c) Exhibits.

10.1\* Transition Agreement, dated August 2, 2000, by and between the Company and Solar Turbines Incorporated.

10.2\* Amended and Restated License Agreement, dated August 2, 2000, by and between the Company and Solar Turbines Incorporated.

\* \* \* \* \*

\* Confidential treatment has been requested for a portion of this exhibit. The confidential portions have been omitted and filed separately with the Securities and Exchange Commission.

SIGNATURES

Pursuant to the requirements of the Securities Exchange Act of 1934, as amended, the Registrant has duly caused this report to be signed on its behalf by the undersigned hereunto duly authorized,

CAPSTONE TURBINE CORPORATION

Date: October 13, 2000

By /s/ JEFFREY WATTS

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Name: Jeffrey Watts  
Title: Chief Financial Officer

\* \* \* \* \*

## CONFIDENTIAL

\*\*\*PORTIONS OF THE EXHIBIT HAVE BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT UNDER RULE 24b-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. THE COMPLETE EXHIBIT, INCLUDING THE PORTIONS FOR WHICH CONFIDENTIAL TREATMENT HAS BEEN REQUESTED, HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

## TRANSITION AGREEMENT

This Transition Agreement ("Agreement") is made effective as of the 2nd day of August, 2000 (the "Effective Date"), by and between Solar Turbines Incorporated, a Delaware corporation, whose principal address is 2200 Pacific Highway, San Diego, California 92101 ("Solar") and Capstone Turbine Corporation, a California corporation whose principal address is, 21211 Nordhoff Street, Chatsworth, California 91311-5844 ("Capstone").

## Recitals

A. Solar and Capstone entered into an Alliance Agreement dated August 25, 1997 ("Alliance Agreement"), under which Solar has been supplying certain primary surface recuperators ("PSRs") for Capstone's Microturbine Generator sets and Capstone has been purchasing PSRs from Solar. The obligations under the Alliance Agreement were to remain in effect through August 25, 2007.

B. On August 25, 1997 Solar and Capstone also entered into a License Agreement ("License Agreement") under which Solar agreed, upon Capstone's election, to license Solar Intellectual Property to Capstone to manufacture and modify PSRs for incorporation into Capstone's Microturbines, all in accordance with the terms of such License Agreement.

C. The parties now believe it is in their mutual interest (1) for Capstone to buy out its obligations under the Alliance Agreement and for Solar to terminate the supply of PSRs thereunder, and (2) to modify and amend the License Agreement and have Capstone exercise its rights under such "Amended and Restated License Agreement."

D. Capstone believes that it is reasonable and prudent for it to pay Nine Million, One Hundred Thousand Dollars, U.S. (\$9,100,000 USD) for the buyout and termination of the Alliance Agreement, the modification and amendment of the License Agreement, the purchase of Machine Tools, and the assistance to be provided by Solar in transitioning its present manufacturing capabilities for the PSRs for Capstone Microturbines to Capstone, all pursuant and subject to this Agreement and the Amended And Restated License Agreement between the parties of even date herewith (the "Amended and Restated License Agreement") which define in further detail the transaction contemplated hereby (the "Transaction").

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. DEFINITIONS.

"Capstone Special Order PSR" shall mean (i) any PSR manufactured according to Capstone's requirements and specifications, (ii) any development PSR, including such development PSR as may be modified from time to time, and (iii) any similar PSR capable of direct replacement for the Capstone Special Order PSR.

"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 which incorporates or is derived from

Solar Intellectual Property, manufactured by or on behalf of Capstone, excluding PSRs supplied to Capstone by Solar.

"Machine Tools" shall mean the machine tools, equipment and supplies described on Schedule 1.

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

"Solar Technology" shall mean all information in Solar's possession on the Effective Date, with the right to disclose to Capstone, and relating to the manufacture and use of Capstone Special Order PSRs, including for example, but not by way of limitation, trade secrets, all technology, know-how, training and transfer to be provided under Paragraph 5.1 of the Amended and Restated License Agreement, 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 Capstone Special Order PSRs.

"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 where, in the case of both (i) and (ii) based on patent applications having an effective filing date on or prior to one (1) month after the Effective Date.

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

"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

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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 where, in the case of both (i) and (ii) based on patent applications having an effective filing date prior to the termination or expiration of this Agreement

"Subsidiary" shall mean any corporation, company or other entity of which more than fifty (50%) 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. TRANSITION FEE AND PROGRESS PAYMENTS.

Capstone agrees to pay Solar a total lump sum of: Nine Million, One Hundred Thousand Dollars (\$9,100,000) (the "Transition Fee") for: (a) the Machine Tools and Transition Assistance described in Section 2 below; (b) for the modifications to and execution of the Amended and Restated License Agreement; and (c) for the mutual termination and release of each party's obligations under the Alliance Agreement as described below. Capstone agrees to pay Solar the Transition Fee pursuant to the following payment schedule:

Milestone #1 \*\*\* to be paid upon the execution of this Agreement and the Amended And Restated License Agreement by Capstone and Solar and in consideration for the Machine Tools.

Milestone #2 \*\*\* upon delivery to Capstone of the Solar Technology that is in tangible form and is related to the manufacture and use of Capstone Special Order PSRs. The anticipated date for delivery is within \*\*\* of the Effective Date, but may be earlier or later.

Milestone #3 \*\*\* upon delivery of \*\*\* pursuant to Section 3.3 below. Delivery is presently scheduled to occur by December 30, 2000.

Milestone #4 \*\*\* upon delivery of \*\*\* pursuant to Section 6 below, with such delivery being presently scheduled to occur by \*\*\*.

Milestone #5 \*\*\* upon completion of the four weeks of technical training described in Section 5.1B) and availability of the Machine Tools located at Solar's Turbofab Facility for delivery to Capstone.

Milestone #6 \*\*\* upon first article testing of the \*\*\* at Capstone's new location, with such first article testing being presently scheduled to occur by \*\*\*.

Milestone #7 \*\*\* upon availability of the \*\*\*, that is, when Solar no longer needs to use such \*\*\* machines on a full production basis in making the \*\*\* under Capstone Purchase Order 292, as described in Section 6 below.

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Milestone #8 \*\*\* upon completion of training on the \*\*\* machines at \*\*\*, with such training presently scheduled to occur on or before \*\*\*. This training is to be covered by a separate agreement between Capstone and \*\*\* and paid for by Capstone. Solar will be available for consulting.

Milestone #9 \*\*\* upon first successful article testing of the \*\*\* at Capstone's new location, such first successful article testing presently scheduled to occur by \*\*\*.

Capstone shall pay the amount due under Milestone #1 upon the execution of this Agreement by wire to the Solar account to be advised by Solar. Solar will issue invoices for each remaining Milestone setting forth the payment dates on which the Milestone is anticipated to occur and Capstone will make payment thereon within ten (10) days of the due date.

If Solar remains ready and willing to perform its obligations hereunder and under the Amended and Restated License Agreement, but is unable to do so through no fault of its own, for reasons beyond its control or because of decisions or actions Capstone, then the Milestone payments described above shall be made to Solar no later than the payment dates described above.

3. MACHINE TOOLS AND TRANSITION ASSISTANCE.

The Machine Tools and Transition Assistance to be provided by Solar consists of:

3.1 Transfer of ownership of the Machine Tools. The Machine Tools are owned by Solar free and clear of all liens and encumbrances. Most of the Machine Tools are located at Solar's Turbofab Facility in Houston, Texas, while some are located at the facilities of Solar suppliers who assist with the manufacture of PSRs. Solar will dismantle the Machine Tools located at its Turbofab Facility and package them for shipment. Solar will also pay all sales tax, if any are due on the sale and transfer of the Machine Tools to Capstone. The Transition Fee does not include and Capstone shall be responsible and pay for: (a) transportation of the Machine Tools to Capstone; (b) packing of any Machine Tools or other equipment not located at the Turbofab Facility or other Solar plant, and (c) the installation, commissioning and/or runoff of the Machine Tools at the Capstone location. The Machine Tools will be transferred to Capstone AS IS and without warranty of any kind except to the extent any manufacturers warranty remains and is assignable to Capstone. Bills of Sale in the form set forth in Schedule 2 will be provided by Solar to Capstone at the time of tender of delivery of the Machine Tool(s) to Capstone.

3.2 Training. The training to be provided to assist Capstone with the transition is set forth in Paragraph 5.1 B) of the Amended and Restated License Agreement.

3.3 Rework of PSRs. Solar shall also rework approximately \*\*\* PSRs recuperators with the scope of such rework limited to the resizing of the inner cylinder diameter through mechanical expansion to allow the passage of the existing inner diameter gages, removal of both stub-ducts, welding of new stub ducts to meet the new stub-duct parameters as outlined

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in Solar drawing 203322 and leak check after rework. If PSRs are found not

re-workable either before or after rework, they will be marked and disposition will be Capstone's decision. They will not be replaced.

All training, know-how, Solar Technology and other transition assistance provided by Solar under this Agreement is provided under and subject to the provisions of the Amended and Restated Licensing Agreement and the Nondisclosure Agreement attached thereto.

4. **AMENDED AND RESTATED LICENSE AGREEMENT.** The License Agreement has been amended and modified in the form of the Amended and Restated License Agreement and shall become effective on the Effective Date as well. The Transition Fee is due in partial consideration for the modified terms in the Amended and Restated License Agreement. All Solar Intellectual Property, training and proprietary information provided by Solar or its employees under this Agreement or as part of the Transaction shall be covered under and subject to the terms of the Amended and Restated License Agreement and the Nondisclosure Agreement attached thereto.

5. **WARRANTIES ON PSRS.** All **WARRANTIES, EXPRESS OR IMPLIED**, guarantees or responsibilities Solar may have for the PSRs or work supplied by Solar to Capstone under the Alliance Agreement, under any purchase orders or hereunder, except Order 292 (see Section 6 below), shall be deemed **TRANSFERRED AND FULLY ASSIGNED** to Capstone upon the transfer of the Machine Tools to Capstone **AND SOLAR SHALL BE AND IS HEREBY RELEASED FROM ANY LIABILITY OR OBLIGATION THEREFORE.** Solar shall however without liability or recourse, offer during the original warranty period covering the work or PSR, free technical assistance on warranty repairs. Such technical assistance shall be limited to matters presently known to and readily available to Solar and freely transferable by Solar and Solar shall not be required to engage in any independent research or study in providing such assistance.

6. **CAPSTONE PURCHASE ORDER 292.** Solar shall continue under Capstone Purchase Order Number 292 ("Order 292") with a goal of completing production of \*\*\*, by \*\*\* to a modified design as defined in a June 20, 2000 Capstone/Solar meeting and summarized in Solar drawing 203210 rev C. Under the Order, Solar also agreed to fabricate additional PSRs from left over materials. Solar shall perform the Order for the consideration set forth in the Order. The amount due Solar under Milestone #4, Section 2, is separate from and in addition to the amount due Solar under Order 292. Solar's warranty responsibility for the PSRs sold by Solar to Capstone under Capstone PO292 will be limited to a lump-sum payment of \*\*\* per defective core. Thus, Solar's obligations under any and all warranties provided by Solar under the Order 292 are limited to no more than \*\*\* per core for any and all defect(s) or claim(s) brought under such warranties and may be fulfilled by the payment of the lesser of such \*\*\* per core or the cost incurred by Capstone in repairing and or replacing the warranted defect under the terms of the "Warranty" clause in the Order. Capstone shall provide Solar an accounting of such costs when claiming the \*\*\* per core or such lesser amount due hereunder. Except as stated in this Section 6, **SOLAR HAS NO OTHER OBLIGATION OR WARRANTY, EXPRESS OR IMPLIED, INCLUDING WITHOUT**

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**LIMITATION WARRANTIES OF MERCHANTABILITY OR FITNESS OF PURPOSE, WITH RESPECT TO ANY WARRANTY OR SUCH CLAIMS.** Order 292 will remain in effect according to its terms notwithstanding the termination of the Alliance Agreement under Section 7 below.

7. **TERMINATION OF THE ALLIANCE AGREEMENT.** As of the Effective Date, the rights and obligations under the Alliance Agreement will be deemed automatically terminated without further act on the part of Solar and/or Capstone.

7.1 **Solar Release.** Contemporaneously with the execution of this Agreement, Solar shall provide to Capstone, in the form attached hereto as Appendix A, a written release (effective as of the Effective Date) of Capstone and its affiliates for any actions, claims, lawsuits, causes of action, damages, judgments, liabilities, costs, and expenses relating to (i) the Alliance Agreement and any purchase orders issued thereunder (other than Capstone Purchase Order 292, which shall continue in effect according to its terms) (ii) Solar's participation in any or all aspects of developing and/or manufacturing PSRs under the Alliance Agreement, (iii) the termination of the Alliance Agreement pursuant to this Agreement, (iv) any and all actual, pending,

threatened, or anticipated administrative and/or judicial proceedings relating to any of the provisions of subparagraphs (i) through (iv) above and all discussions, meetings, memoranda documents and/or negotiations relating to subparagraphs (i) through (iv) above. The release shall not excuse any of the obligations to be performed under this Agreement and under the Amended and Restated License Agreement.

7.2 **Capstone Release.** Contemporaneously with the execution of this Agreement Capstone shall provide to Solar, in the form attached hereto as Appendix B, a written release (effective as of the Effective Date) of Solar and its affiliates for any actions, claims, lawsuits, causes of action, damages, judgments, liabilities, costs, and expenses relating to (i) the Alliance Agreement and any purchase orders issued thereunder (other than Capstone Purchase Order 292 which shall continue in effect according to its terms), (ii) Solar's participation in any or all aspects of developing and/or manufacturing PSRs under the Alliance Agreement, (iii) the termination of the Alliance Agreement pursuant to this Agreement, (iv) any and all actual, pending, threatened, or anticipated administrative and/or judicial proceedings relating to any of the provisions of sub-paragraphs (i) through (iv) above and all discussions, meetings, memoranda, documents and/or negotiations relating to subparagraphs (i) through (iv) above. The release shall not excuse any of the obligations to be performed under this Agreement and under the Amended and Restated License Agreement.

7.3 Notwithstanding, this Section 7, the provisions of Paragraph 13.1, Confidential Information, of the Alliance Agreement shall survive its termination. Said Paragraph 13.1 incorporates by reference a nondisclosure agreement attached to the Alliance Agreement as Exhibit C (the "Prior Nondisclosure Agreement"). Upon the Effective Date all Proprietary Information disclosed under the Prior Nondisclosure Agreement shall be

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subject to the provisions of and covered under the Nondisclosure Agreement described in Paragraph 8.1 below.

## 8. CONFIDENTIAL INFORMATION AND NOTICES.

8.1 **Confidential Information.** The parties hereby ratify and incorporate by reference that certain Nondisclosure Agreement, attached to the Amended and Restated License Agreement as Exhibit "A" (the "Nondisclosure Agreement"). The terms and conditions of this Agreement are confidential and are subject to the provisions of the Nondisclosure Agreement.

8.2 **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  
21211 Nordhoff Street  
Chatsworth, California 91311-5844

Attn: Ake Almgren  
President and Chief Executive Officer

With a copy to:

Capstone Turbine Corporation  
21211 Nordhoff Street  
Chatsworth, California 91311-5844

Attn: Jeff Watts  
Chief Financial Officer

If to Solar:

Solar Turbines Incorporated  
2200 Pacific Highway

San Diego, California 92101

Attention: Director, Recuperator Business

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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#### 9.0 DEFAULT AND DISPUTE RESOLUTION.

9.1 Default. If either party materially breaches this Agreement or if Capstone fails to make any payment of Transition Fees under 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 a breach or failure to pay remains uncured after thirty (30) days either party may initiate the dispute resolution proceedings provided for in Paragraph 9.2 and 9.3. If Capstone disputes an invoice and refuses to pay any disputed (invoiced and unpaid) Transition Fees into an escrow account after written notice from Solar, with a sixty (60) day opportunity to cure, Solar may on notice to Capstone terminate this Agreement and the Amended and Restated License Agreement. So long as Capstone pays all of the undisputed fees and places the disputed amounts in an escrow account which authorizes the release of such amounts in accordance with any award or resolution under Paragraph 9.2 and 9.3 Solar may not terminate this Agreement or the Amended and Restated License Agreement for failure to pay such amount. Such a termination by Solar will be in addition to any other rights or remedies Solar may have in equity or at law.

9.2 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 9.3.

9.3 Arbitration. Subject to the provisions of Paragraph 9.3 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 the applicable statute of limitations. The party requesting arbitration shall appoint one independent neutral arbitrator in writing and the

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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 there-over. 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.

9.4 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.

9.5 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.

#### 10. REPRESENTATIONS, WARRANTIES AND DISCLAIMERS.

10.1 Solar Representations. Solar hereby represents and warrants to Capstone that:

(i) it has the full power and authority to execute, deliver any obligations under this Agreement and the Amended and Restated License Agreement and to carry out the transactions contemplated thereby;

(ii) it has duly authorized, executed and delivered this Agreement and the Amended and Restated License Agreement and this Agreement and the Amended and Restated License Agreement constitute its legal, valid and binding obligation, enforceable against it in accordance with the terms thereof;

(iii) no authorization, consent, approval or order of or notice to or registration, qualification, declaration or filing with, any governmental authority is required for its execution, delivery and/or performance of this Agreement, or the Amended and Restated License Agreement;

(iv) the execution, delivery and performance by it of this Agreement and the Amended and Restated License Agreement, and the compliance by it with the terms and provisions hereof do not conflict with or result in a breach or violation or constitute a default under (a) any of the terms, conditions or provisions of its articles of incorporation and by-

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laws and/or any joint development or other agreements or documents between and among it and any parties now or previously involved in the development and/or operation of the Turbofab Facility or any successor thereto (b) any applicable law, rule, regulation, order, writ, injunction, judgment or decree of any court or governmental agency or authority, or (c) any loan agreement, indenture, mortgage, contract or other agreement or instrument to which it is a party or by which it or any of its properties is bound (including, without limitation, those relating to the Turbofab Facility); nor will any such action result in the imposition of any lien, mortgage or other encumbrance upon any of its properties; and

10.2 Capstone Representations. Capstone hereby represents and warrants to Solar that:

(i) it has full power and authority to execute, deliver and perform its obligations under this Agreement and the Amended and Restated License Agreement and to carry out the transactions contemplated thereby;

(ii) it has duly authorized, executed and delivered this Agreement and the Amended and Restated License Agreement and this Agreement and the Amended and Restated License Agreement constitute its legal, valid and binding obligation, enforceable against it in accordance with the terms thereof;

(iii) no authorization, consent, approval or order of, or notice to

or registration, qualification, declaration or filing with, any governmental authority is required for its execution, delivery and performance of this Agreement or the Amended and Restated License Agreement; and

(iv) the execution, delivery and performance by it of this Agreement and the Amended and Restated License Agreement, and the compliance by it with the terms and provisions thereof, do not conflict with or result in a breach or violation of or constitute a default under any of the terms, conditions or provisions of (a) its articles of incorporation, or (b) any applicable law, rule, regulation order, writ, injunction, judgment or decree of any court or governmental agency or authority, or (c) any loan agreement, indenture, mortgage, contract or other material agreement or instrument to which it is a party or by which it or any of its properties is bound; nor will any such action result in the imposition of any lien, mortgage or other encumbrance upon any of its properties.

10.3 Waiver of Incidental and Consequential Damages. 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.

10.4 Disclaimer. ALL MACHINE TOOLS TRANSFERRED AND RE-WORK OF PSRs (SEE PARAGRAPH 3.3) UNDER THIS AGREEMENT ARE TRANSFERRED AND PERFORMED "AS IS" AND SOLAR DOES NOT MAKE, AND HEREBY DISCLAIMS, ANY AND ALL EXPRESS OR IMPLIED WARRANTIES WITH RESPECT TO THE TRANSFERRED MACHINE TOOLS AND RE-WORK, 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

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AGREEMENT SHALL BE DEEMED TO CONSTITUTE A REPRESENTATION OR WARRANTY BY SOLAR OF THE ABILITY OF CAPSTONE TO MANUFACTURE OR SELL PRODUCTS OR PSRs.

10.5 Indemnity. 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, Machine Tools or PSRs by Capstone, or its affiliates, subsidiaries or transferees or use by Capstone or its affiliates, subsidiaries or transferees of any Solar Intellectual Property, Machine Tools or PSRs 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, Machine Tools or PSRs, except for claims that are due 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.

10.6 NOTWITHSTANDING ANY PROVISION CONTAINED IN THIS AGREEMENT OR IN THE AMENDED AND RESTATED LICENSE AGREEMENT TO THE CONTRARY, SOLAR DOES NOT GUARANTEE ANY RESULTS WHATSOEVER, WHETHER WITH REGARD TO CAPSTONE'S CAPACITY TO MANUFACTURE OR MAKE PSRs, ANY INCREASE IN OR EQUAL TO SOLAR'S PRODUCTION RATES OR INCREASE THE PRODUCTION CAPACITY OF 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 IT OWN COUNSEL IN MAKING BUSINESS DECISIONS AND ASSUMES ALL RISKS WITH REGARD TO WHETHER INDIVIDUAL INVESTMENTS ACHIEVE CERTAIN RESULTS. SOLAR HAS ADVISED CAPSTONE OF THE RISKS OF TRANSFER CONTEMPLATED BY THIS AGREEMENT AND THE AMENDED AND RESTATED LICENSE AGREEMENT WITHIN THE TIME FRAMES REQUESTED BY CAPSTONE. SOLAR ASSUMES NO RESPONSIBILITY REGARDING THE ABILITY OR LIKELIHOOD THAT CAPSTONE WILL BE ABLE TO ASSIMILATE, USE AND BE SUCCESSFUL WITH MACHINE TOOLS, SOLAR INTELLECTUAL PROPERTY AND ALL OTHER INFORMATION OR KNOW-HOW TRANSFERRED IN THEIR ATTEMPTS TO MANUFACTURE AND/OR PRODUCE PSRs FOR CAPSTONE MICROTURBINES. EXCEPT AS SPECIFICALLY PROVIDED FOR ELSEWHERE HEREUNDER, THERE IS NO GUARANTEE AS TO ACCURACY, SUFFICIENCY, OR COMPLETENESS OF THE SOLAR INTELLECTUAL PROPERTY OR SUCH INFORMATION, EXCEPT IN THE CASE THAT SOLAR'S CONDUCT IN PROVIDING INACCURATE, INSUFFICIENT OR INCOMPLETE INFORMATION IS INTENTIONAL OR GROSSLY NEGLIGENT. SOLAR'S GOAL IS TO, WITHIN THE SPECIFIC PERFORMANCE OBLIGATIONS OF THIS AGREEMENT AND THE AMENDED

AGREEMENT, TRANSFER TO CAPSTONE ITS MANUFACTURING CAPABILITY, AS OF THE EFFECTIVE DATE, FOR CAPSTONE SPECIAL ORDER PSRs FOR CAPSTONE MICROTURBINES IN ACCORDANCE THEREWITH.

10.7 Survival. This Section 10.0 shall survive any expiration or termination of this Agreement.

11.0 MISCELLANEOUS.

11.1 Severable Provisions. 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.

11.2 Assignment. This Agreement shall inure to the benefit of and be binding upon the successors and assigns of Capstone and Solar and neither party shall assign this Agreement or any part thereof without the prior written consent of the other party, which consent may be withheld for any reason except that it may be assigned by Capstone to a purchaser of substantially all the assets of Capstone, provided such purchaser is not actively engaged in the business of manufacturing or selling recuperators, or manufacturing or selling individual gas turbines of \*\*\* or greater output power.

11.3 No License. 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. Any such rights are granted under and subject to the Amended and Restated License Agreement.

11.4 Independent Contractors. This Agreement shall not constitute, create, give effect to or otherwise imply a teaming, joint venture, 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.

11.5 Entire Agreement. This Agreement and those documents specifically referenced herein and 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 except by a writing signed by both parties.

11.6 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.

11.7 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.

11.8 *Employee Solicitation.* For a period of three years 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.

11.9 *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.

11.10 *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) 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 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 Paragraph 11.12 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.

11.11 *Public Acknowledgement.* Both Solar and Capstone may publicly acknowledge and announce that they have entered into an agreement for the transfer and licensing of rights to manufacture PSRs for incorporation into Capstone's Microturbines.

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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 this Agreement is an exclusive agreement.

11.12 *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.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by two authorized and elected officers of each party.

CAPSTONE TURBINE  
CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ GARY STROUP

By: /s/ AKE ALMGREN

Printed  
Name: Ake Almgren

Printed  
Name: Gary Stroup

Title: President & CEO

Title: President

Date: August 7, 2000

Date: August 4, 2000

CAPSTONE TURBINE  
CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ DAVID W. ESBECK

By: /s/ WILLIAM TREECE

Printed  
Name: William Treece

Printed  
Name: David W. Esbeck

Title: Sr. VP Strategic Technology

Title: Vice President

Date: August 7, 2000

Date: August 4, 2000

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APPENDIX A

RELEASE

This Release is made effective as of August 2, 2000 by Solar Turbines Incorporated, a corporation organized and existing under the laws of the state of Delaware ("Solar"), on behalf of itself and each of its predecessors, successors, parent companies, subsidiaries, affiliates, divisions, assignees, attorneys and nominees, and all present and former partners, employees, directors, officers, agents, attorneys, beneficiaries, representatives and stockholders (the "Releasor") for the benefit of Capstone Turbines Corporation ("Capstone"), and its respective predecessors, successors, parent companies, subsidiaries, affiliates, divisions, assignees, attorneys and nominees, and all present and former partners, employees, directors, officers, agents, attorneys, beneficiaries representatives, and stockholders (the "Releasees"). This Release is being provided in connection with Paragraph 7 of that certain Transition Agreement dated August 2, 2000 ("Transition Agreement") between the Releasor and the Releasees that is being executed contemporaneously herewith. All capitalized terms used in this Release that are not otherwise defined herein shall have the same meaning as set forth in the aforesaid Transition Agreement.

This Release shall be deemed effective and operative automatically and without any further action on the part of Capstone or Solar.

The Releasor, in consideration of good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does hereby release and forever discharge Releasees of and from any and all manner of claims, rights, actions, causes of actions, suits, liens, obligations, accounts, debts, damages (whether general, special, indirect or punitive), demands, agreements promises, covenants, contracts, judgments, indemnities, guarantees, liabilities, controversies, costs, expenses and attorneys' or paralegals' or other fees whatsoever, whether based on contract, tort, statute or other legal or equitable theory of recovery, whether choate or inchoate, mature or unmatured, contingent or fixed, liquidated or unliquidated, known or unknown, accrued or unaccrued, or asserted or unasserted (individually, a "Claim" and collectively, "Claims"), in connection with, arising out of, or which are in any way related to a (i) the Alliance Agreement dated August 25, 1997 between Capstone and Solar ("Alliance Agreement"), (ii) any purchase order issued by Capstone under the Alliance Agreement (except for Capstone Purchase Order 292, which shall remain in effect), (iii) the termination of the Alliance Agreement pursuant to the Agreement, (iv) any and all actual, pending, threatened, or anticipated administrative and/or judicial proceedings relating to any of the provisions of subparagraphs (i) through (ii) and (iv) hereof, and (v) all discussions, meetings, memoranda documents and/or negotiations relating to subparagraphs (i) through (iv) above. This Release shall not in any way excuse or limit any and/or all obligations to be performed under the Transition Agreement and/or under the Amended and Restated License Agreement.

TO THE EXTENT THAT SECTION 1542 OF THE CALIFORNIA CIVIL CODE IS APPLICABLE TO THE RELEASES CONTAINED HEREIN, EACH PARTY

HERETO EXPRESSLY WAIVES ANY AND ALL RIGHTS AND BENEFITS OTHERWISE CONFERRED BY THE PROVISIONS OF THAT SECTION TO THE FULL EXTENT THAT THEY MAY WAIVE ALL SUCH RIGHTS AND BENEFITS PERTAINING TO THE MATTERS RELEASED HEREIN AND ACKNOWLEDGES THAT IT IS FAMILIAR WITH THE SECTION, WHICH PROVIDES AS FOLLOWS:

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

The Releasor warrants and represents to the Releasees that (i) it has read and reviewed the terms and conditions hereof, (ii) it understands, acknowledges and accepts its duties and obligations hereunder; (iii) it has been represented by counsel in all matters relating to this Release, including the preparation and execution hereof; (iv) it has full legal and corporate authority to enter into this Release and assume the duties and obligations imposed upon it hereunder; and (v) it shall execute promptly such documents as may be reasonably requested by the Releasees to confirm the Releasor's obligations hereunder.

This Release may be amended or modified only by a written instrument executed by the Parties hereto.

This Release shall be governed by and construed in accordance with the laws of the State of California.

IN WITNESS WHEREOF, Solar Turbines Incorporated has executed this Release as of the date first written above.

Solar Turbines Incorporated

By: /s/ GARY STROUP

Title: President

APPENDIX B

RELEASE

This Release is made effective as of August 2, 2000, by Capstone Turbines Corporation, a corporation organized and existing under the laws of the State of California ("Capstone"), on behalf of itself and each of its predecessors, successors, parent companies, subsidiaries, affiliates, divisions, assignees, attorneys and nominees, and all present and former partners, employees, directors, officers, agents, attorneys, beneficiaries, representatives and stockholders (the "Releasor") for the benefit of Solar Turbines Incorporated ("Solar"), a corporation organized and existing under the laws of the state of Delaware, and its respective predecessors, successors, parent companies, subsidiaries, affiliates, divisions, assignees, attorneys and nominees, and all present and former partners, employees, directors, officers, agents, attorneys, beneficiaries, representatives, and stockholders (the "Releasees"). This Release is being provided in connection with Paragraph 7 of that certain Transition Agreement dated August 2, 2000 ("Transition Agreement") between the Releasor and the Releasees that is being executed contemporaneously herewith. All capitalized terms used in this Release that are not otherwise defined herein shall have the same meaning as set forth in the aforesaid Transition Agreement.

This Release shall be deemed effective and operative automatically and without any further action on the part of Capstone or Solar.

The Releasor, in consideration of good and valuable consideration the receipt and sufficiency of which are hereby acknowledged, does hereby release and forever discharge Releasees of and from any and all manner of claims, rights, actions, causes of actions, suits, liens, obligations, accounts, debts, damages (whether general, special, indirect or punitive), demands, agreements, promises, covenants, contracts, judgments, indemnities, guarantees, liabilities,

controversies, costs, expenses and attorneys' or paralegals' or other fees whatsoever, whether based on contract, tort, statute or other legal or equitable theory of recovery, whether choate or inchoate, mature or unmatured, contingent or fixed, liquidated or unliquidated, known or unknown, accrued or unaccrued, or asserted or unasserted (individually, a "Claim" and collectively, "Claims"), in connection with, arising out of, or which are in any way related to a (i) the Alliance Agreement dated August 25, 1997 between Capstone and Solar ("Alliance Agreement"), (ii) any purchase order issued by Capstone under the Alliance Agreement (except for Capstone Purchase Order 292, which shall remain in effect), (iii) the termination of the Alliance Agreement pursuant to the Agreement, (iv) any and all actual, pending, threatened, or anticipated administrative and/or judicial proceedings relating to any of the provisions of subparagraphs (i) through (ii) and (iv) hereof, and (v) all discussions, meetings, memoranda documents and/or negotiations relating to subparagraphs (i) through (iv) above. This Release shall not in any way excuse and/or limit any and/or all obligations to be performed under the Transition Agreement and/or the Amended and Restated License Agreement.

TO THE EXTENT THAT SECTION 1542 OF THE CALIFORNIA CIVIL CODE IS APPLICABLE TO THE RELEASES CONTAINED HEREIN, EACH PARTY

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HERETO EXPRESSLY WAIVES ANY AND ALL RIGHTS AND BENEFITS OTHERWISE CONFERRED BY THE PROVISIONS OF THAT SECTION TO THE FULL EXTENT THAT THEY MAY WAIVE ALL SUCH RIGHTS AND BENEFITS PERTAINING TO THE MATTERS RELEASED HEREIN AND ACKNOWLEDGES THAT IT IS FAMILIAR WITH THE SECTION, WHICH PROVIDES AS FOLLOWS:

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

The Releasor warrants and represents to the Releasees that (i) it has read and reviewed the terms and conditions hereof; (ii) it understands, acknowledges and accepts its duties and obligations hereunder; (iii) it has been represented by counsel in all matters relating to this Release, including the preparation and execution hereof; (iv) it has full legal and corporate authority to enter into this Release and assume the duties and obligations imposed upon it hereunder; and (v) it shall execute promptly such documents as may be reasonably requested by the Releasees to confirm the Releasor's obligations hereunder.

This Release may be amended or modified only by a written instrument executed by the Parties hereto.

This Release shall be governed by and construed in accordance with the laws of the State of California.

WHEREFORE, Capstone Turbines Corporation has executed this Release as of the date first written above.

Capstone Turbine Corporation

By: /s/ AKE ALMGREN

Title: President & CEO

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SCHEDULE 1

List of Machine Tools

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SCHEDULE 2

Bill of Sale

KNOW BY ALL THESE PRESENTS;

That for and in consideration of, good and valuable consideration, the receipt of which is hereby acknowledged, the undersigned Solar Turbines Incorporated, a Delaware corporation ("Solar") effective as of the \_\_\_\_\_ day of \_\_\_\_\_, 2000, hereby sells, assigns and transfers to Capstone Turbine Corporation, a California corporation ("Capstone"), all Solar's right, title and interest in and to the machine tools described in the list below hereto ("machine tools"), to have and to hold the machine tools and each part thereof, for Capstone's own use and benefit forever. Solar hereby warrants to Capstone that the machine tools and all components of the Machine Tools transferred hereby shall be as of the transfer date, owned by Solar and are held free and clear of any mortgage, pledge, lien, charge, encumbrance, lease, or security interest except liens created by or existing by or through Capstone, if any, and that Solar has full right, title and authority as to all persons to sell the same aforesaid; and Solar hereby covenants with Capstone that, to the extent of the foregoing warranty, Solar will warrant and defend the same and all components thereof against the claims and demands of all persons. IN WITNESS WHEREOF, Solar has caused this instrument to be executed by its duly authorized officer and its seal to be affixed hereto this \_\_\_\_\_ day of \_\_\_\_\_ 2000.

Solar Turbines Incorporated

By: \_\_\_\_\_

Title: \_\_\_\_\_

LIST OF MACHINE TOOLS COVERED BY THIS BILL OF SALE:



CONFIDENTIAL

\*\*\*PORTIONS OF THE EXHIBIT HAVE BEEN OMITTED PURSUANT TO A REQUEST FOR CONFIDENTIAL TREATMENT UNDER RULE 24b-2 OF THE SECURITIES EXCHANGE ACT OF 1934, AS AMENDED. THE COMPLETE EXHIBIT, INCLUDING THE PORTIONS FOR WHICH CONFIDENTIAL TREATMENT HAS BEEN REQUESTED, HAS BEEN FILED SEPARATELY WITH THE SECURITIES AND EXCHANGE COMMISSION.

AMENDED AND RESTATED LICENSE AGREEMENT

This Amended and Restated License Agreement ("Agreement") is made effective as of August 2, 2000 (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 21211 Nordhoff Street, Chatsworth, California 91311-5844 ("Capstone");

WHEREAS, Solar and Capstone entered into a License Agreement dated August 25, 1997 ("Prior License Agreement") and desire, pursuant to this Agreement and that Transition Agreement dated August 2, 2000 between the parties (the "Transition Agreement"), to amend and restate that Prior License Agreement so that it, as of the Effective Date, is superceded and replaced by this Agreement; and

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, (ii) any development PSR, including such

development PSR as may be modified from time to time, and (iii) any similar PSR capable of direct replacement for the Capstone Special Order PSR.

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 which incorporates or is derived from Solar Intellectual Property, manufactured by or on behalf of Capstone, excluding PSRs supplied to Capstone by Solar.

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

1.4 "Solar Technology" shall mean all information in Solar's possession on the Effective Date, with the right to disclose to Capstone, and relating to the

manufacture and use of Capstone Special Order PSRs, including for example, but not by way of limitation, trade secrets, all technology, know-how, training and transfer to be provided under Paragraph 5.1 of this Agreement, 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 Capstone Special Order PSRs.

1.5 "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 where, in the case of both (i) and (ii) based on patent applications having an effective filing date on or prior to one (1) month after the Effective Date, as defined above.

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

1.7 "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 where, in the case of both (i) and (ii) based on patent applications having an effective filing date prior to the termination or expiration of this Agreement.

1.8 "Subsidiary" shall mean any corporation, company or other entity of which more than fifty percent (50%) 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."

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1.9 "Transition Fee" shall mean the "Transition Fee" as defined under the Transition Agreement.

2.0 EXERCISE OF LICENSE RIGHTS

2.1 The license rights granted under this License Agreement become effective on the Effective Date.

2.2 Upon the Effective Date, Capstone may announce and/or publicize that Licensed Products included in Capstone's Microturbines and sold by or on behalf of Capstone are (or will be) manufactured pursuant to license rights granted to Capstone by Solar. 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 this Agreement is an exclusive agreement.

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, Solar hereby does grant to Capstone, a non-exclusive, non-transferable, non-sublicensable, except as otherwise provided herein, world-wide, royalty bearing 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, or parts or components thereof, made by a third party for Capstone, only if Capstone first obtains Solar's written consent to do so and first offers to Solar a right of first refusal to

produce the quantities concerned on the same terms and conditions as the third party and Solar declines such right. Solar shall not unreasonably withhold, delay, or condition such consent but Solar may, in any event, withhold its consent if the third party competes with Solar in the turbomachinery business and/or the recuperator business. In addition if Capstone discloses Solar Technology to a third party in connection with its exercise of rights to have Licensed Product or parts or components made by such third party under this Paragraph 3.2, then Capstone shall first obtain the written agreement of said third party to protect the Solar Technology according to provisions equivalent to the Nondisclosure Agreement attached hereto as Exhibit A. Upon request, Capstone shall provide to Solar copies of any such agreements by third parties.

3.3 Capstone hereby grants and agrees to grant to Solar a non-exclusive, non-transferable, non-sublicensable except as provided herein, royalty-free worldwide license

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under Capstone Patents having a filing date within five (5) years of the Effective Date 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 Paragraph 3.1 and shipped by Capstone under this Agreement in accordance with the following schedule:

\*\*\*

Such Licensed Product shall be considered as shipped by Capstone when such Licensed Product is delivered as if on an ex-works or FOB basis to any third party, whether an independent third party or a Capstone affiliate.

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

5.1 To enable Capstone to manufacture Licensed Product under the provisions of Paragraph 3.1, Solar shall:

A) Promptly transfer to Capstone, starting within sixty (60) days from the Effective Date, all Solar Technology that is in tangible form related to the manufacture and use of Capstone Special Order PSRs; and

B) Provide Capstone training in the overall Solar Technology to make and manufacture the Capstone Special Order PSR. Solar will provide four (4) weeks of such technical training at its Turbofab facility in the operation and maintenance of the \*\*\* machines, and the assembly of \*\*\* assemblies. Solar will accompany Capstone to its three major suppliers \*\*\* to effect the start of technology transfer and supplier introductions. Capstone will enter into a nondisclosure agreement with each such supplier in accordance with Paragraph 3.2. Capstone will be responsible to make its own arrangements with machine suppliers for training on machines not located at Solar. Solar will schedule these transfers as reasonably requested by Capstone but in any event prior to December 2000. Capstone has the obligation to apply appropriate and qualified resources and employees to the task of transferring such Solar Technology and to meeting the goal described in C) and D) below. As part of the technology transfer, Capstone will be provided both a current machine and raw material suppliers list. Capstone agrees that it shall not sell or transfer such tooling and equipment containing Solar Technology to a third party except as permitted by Section 14.1 hereof.

C) Solar will use commercially reasonable efforts to complete the knowledge transfer by June 2001. Solar Technology will have been considered completely transferred to Capstone after each class of equipment listed below has been operated successfully to within \*\*\* of stated production rates in D) below and for a period equal to that required to support the completion of \*\*\* PSRs. Additional Solar

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consulting at Capstone is available for \$1000 per day for a period of five

(5) years following the Effective Date.

D)

<TABLE>

<CAPTION>

MACHINE CENTER	PRODUCTION RATE
***	***
***	***
***	***
***	***
***	***
***	***
***	***
***	***

</TABLE>

E) 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. If Capstone disputes an invoice for a Milestone related to this Paragraph 5.1 and refuses to pay any disputed (invoiced and unpaid) Transition Fee into an escrow account after written notice from Solar, with a sixty (60) day opportunity to cure, Solar may on notice to Capstone terminate this Agreement and the Transition Agreement. So long as Capstone pays all of the undisputed fees and places the disputed amounts in an escrow account which authorizes the release of such amounts in accordance with any award or resolution under Paragraph 14.4 Solar may not terminate this Agreement or the Transition Agreement for failure to pay such amount. Such a termination by Solar will be in addition to any other rights or remedies Solar may have in equity or at law.

F) Solar is not required to transfer any detailed knowledge of the Solar Patents other than that information which is publicly known or that Solar Technology that is necessary to comply with the requirements of this Paragraph 5.1 or that knowledge Solar presently uses 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 solely 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 three (3) years 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 at 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 an under reporting of royalties due Solar of five percent (5%) or more, 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 one percent (1%) 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 seventeen (17) years from the Effective Date. The licenses granted in Section 3.0 to each party shall be paid up for the life of Capstone Patents

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and Solar Intellectual Property upon the expiration, but 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 or if Capstone fails to make any payment of Transition Fees under the Transition 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 or failure of Capstone to pay any Transition Fees remains uncured after thirty (30) days the nondefaulting party may initiate the dispute resolution proceedings provided for in Paragraph 14.4 and 14.5. However, if Capstone disputes an invoice and refuses to pay any disputed (invoiced and unpaid) Transition Fee into an escrow account after written notice from Solar, with a sixty (60) day opportunity to cure, Solar may on notice to Capstone terminate this Agreement and the Transition Agreement. So long as Capstone pays all of the undisputed Transition Fees and places the disputed amounts of any Transition Fee in an escrow account which authorizes the release of such amounts in accordance with any award or resolution under Paragraph 14.4 Solar may not terminate this Agreement or the Transition Agreement for failure to pay such amount. Such a termination by Solar will be in addition to any other rights or remedies Solar may have in equity or at law.

#### 8.0 WARRANTIES AND DISCLAIMERS

8.1 Each party represents and warrants that it has the right and power to enter into this Agreement. Each party represents, warrants, and agrees that it will cooperate and utilize commercially reasonable efforts to fulfill its obligations under 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, intellectual property, 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.

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

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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 EXCEPT AS PROVIDED IN THE LAST SENTENCE OF PARAGRAPH 8.1, 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 express or implied, warranties as to the validity or enforceability of any Solar Patents and/or Capstone Patents, respectively.

#### 9.0 PROPRIETARY INFORMATION

9.1 The parties hereby ratify and incorporate that certain Nondisclosure Agreement, dated August 2, 2000 ("Nondisclosure Agreement") attached hereto as Exhibit "A". Certain proprietary information was disclosed subject to that certain Nondisclosure Agreement dated June 1, 1996 between the parties which was Exhibit C to that certain Alliance Agreement dated August 25, 1997 between the parties. All such proprietary information disclosed thereunder, hereunder and under the Transition Agreement shall be deemed as of the Effective Date covered under and subject to the terms of the Nondisclosure Agreement attached hereto as Exhibit A.

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 implied, any rights or licenses to the party's proprietary information other than those rights specifically granted in this Agreement.

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#### 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 (unlicensed) 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 Intellectual Property 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 fifty percent (50%) of the Transition Fees and 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 Intellectual Property 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.

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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, or based on obligations which remain with Solar under Paragraph 13.1, 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. The maximum cumulative liability of Capstone under this paragraph is thirty five million dollars (\$35,000,000).

#### 14.0 GENERAL TERMS AND CONDITIONS

14.1 This Agreement shall inure to the benefit of and be binding upon the

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 which shall not be unreasonably withheld, delayed, or conditioned, except (i) that it may be assigned by either party to a wholly owned subsidiary of the assigning party without the other party's consent; and (ii) that it may be assigned to a purchaser or transferor of substantially all the assets of Capstone or Solar, provided such purchaser is not actively engaged in the business of manufacturing or selling PSRs, or manufacturing or selling individual gas turbines of \*\*\* or greater output power. Notwithstanding any provision contained in this Agreement to the contrary, Capstone may only sublicense a party, other than a wholly owned subsidiary, with Solar's prior written consent. In all events, as to each and every assignment made and each sublicense, if granted, such assignment and/or sublicense shall provide Solar with all rights and benefits it has under this Agreement against such assignee and/or sublicensee and impose on such assignee and/or licensee all of the obligations under this Agreement. Notwithstanding any provision contained in this Agreement to the contrary, in the event Solar or Capstone assigns or sublicenses this Agreement to a third party, Solar and/or Capstone, as the case may be, 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:

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To Capstone:

Capstone Turbine Corporation  
21211 Nordhoff Street  
Chatsworth, California 91311-5844

Attn: Ake Almgren  
President and Chief Executive Officer

With a copy to:

Capstone Turbine Corporation  
21211 Nordhoff Street  
Chatsworth, California 91311-5844

Attn: Jeff Watts  
Chief Financial Officer

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.

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

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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. 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 three years from the Effective 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.

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 Exhibit A constitute the entire agreement between the parties with respect to the subject matter hereof, and as of the Effective Date 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.

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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 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

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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 by their duly authorized officers on the day and year indicated below to be effective as of the date indicated above.

CAPSTONE TURBINE CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ AKE ALMGREN

By: /s/ GARY STROUP

Title: President & CEO

Title: President

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Date: August 7, 2000  
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Date: August 3, 2000  
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CAPSTONE TURBINE CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ WILLIAM TREECE  
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By: /s/ DAVID W. ESBECK  
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Title: Sr. VP Strategic Technology  
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Title: Vice President  
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Date: August 7, 2000  
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Date: August 4, 2000  
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EXHIBIT A

NONDISCLOSURE AGREEMENT

This Nondisclosure Agreement ("Agreement") is made effective as of August 2, 2000 by and between Solar Turbines Incorporated, a Delaware corporation having its principal office in San Diego, California ("Solar") and Capstone Turbine Corp., a California corporation having its principal office in Woodland Hills, California ("Capstone").

WHEREAS, Solar and Capstone entered into an Alliance Agreement dated August 25, 1997 ("Alliance Agreement"), under which Solar has been supplying certain primary surface recuperators ("PSRs") for Capstone's Microturbine Generator sets and Capstone has been purchasing PSRs from Solar.

WHEREAS, on August 25, 1997 Solar and Capstone also entered into a License Agreement ("License Agreement") under which Solar agreed, upon Capstone's election, to license Solar Intellectual Property (as defined therein) to Capstone to manufacture and modify PSRs for incorporation into Capstone's Microturbines, all in accordance with the terms of such License Agreement.

WHEREAS, Capstone agreed to pay Solar certain Transition Fees pursuant to that certain Transition Agreement dated August 2, 2000 between the parties ("Transition Agreement") for the buyout and termination of the Alliance Agreement, the modification and amendment of the License Agreement and the assistance to be provided by Solar in transitioning its present manufacturing capabilities for PSRs for Capstone Microturbines to Capstone, all pursuant and subject to the Transition Agreement and the Amended And Restated License Agreement between the parties of even date herewith (the "Amended and Restated License Agreement") which define in further detail the transaction contemplated thereby (the "Transaction").

WHEREAS, Solar has agreed to share and disclose certain proprietary information and Solar Technology (collectively the "Solar Technology" hereunder), as defined in the Amended and Restated License Agreement, to Capstone as part of and in furtherance of the Transaction.

WHEREAS, certain proprietary information was disclosed under the Alliance Agreement subject to that certain Nondisclosure Agreement dated June 1, 1996 between the parties which was Exhibit C to the Alliance Agreement ("Prior Nondisclosure Agreement").

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

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

compressors, air bearings, combustors, permanent magnet alternators, electronic convertors and recuperators and has the right to disclose certain proprietary information related thereto ("Capstone Proprietary Information").

WHEREAS, the parties agree that all proprietary information disclosed under each of the above described Prior Nondisclosure Agreements and the Solar Technology (as defined in the Amended and Restated Licensing Agreement) and the Capstone Proprietary Information (as defined just above), collectively, shall be referred to herein as "proprietary information" and be subject to this Agreement.

WHEREAS, each party desires to disclose such proprietary information to the other party for the limited purposes authorized under and in furtherance of the Transaction and, as to the Solar Technology and Solar proprietary information, subject to the terms of the Amended and Restated Licensing Agreement.

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 disclose to any person or persons or use for purposes other than as allowed under the Amended and Restated License Agreement, proprietary information disclosed to it under this Agreement.

Each Party recognizes that any disclosure of proprietary information received by it from the other 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, each Party agrees:

(a) to hold all proprietary information disclosed to it in safekeeping and in strict confidence and not to disclose such 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 disclosed to it with at least the same degree of care with which each treats and protects its own proprietary information which 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 disclosed to it to only those employees within its organization who require such 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 disclosed to it 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 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 proprietary information. In providing data pursuant to this Agreement, the Party providing the proprietary information makes no representation, either expressed or implied, as to adequacy, sufficiency, or freedom from fault of such proprietary information and incurs no responsibility nor obligation whatsoever by reason thereof; and the furnishing of such proprietary information shall not convey any rights or license with respect to such proprietary information.

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

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as this Agreement is in place with such parties. Similarly, such contract or purchase order will authorize Capstone, subject to the provision of Paragraph 3.2 of the Amended and Restated License Agreement, 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 for breach of the terms hereof or of the License Agreement or Transition Agreement upon giving sixty (60) written notice of its intention to terminate to the other Party unless the defaulting party cures each and every breach within such cure period; or (b) the Agreement shall automatically expire ten (10) years from the Effective Date 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.  
21211 Nordhoff Street  
Chatsworth, California 91311-5844

Attn: Ake Almgren  
President and Chief Executive Officer

With a copy to:

Capstone Turbine Corp.

21211 Nordhoff Street  
Chatsworth, California 91311-5844

Attn: Jeff Watts  
Chief Financial Officer

If to Solar:

Solar Turbines Incorporated  
2200 Pacific Highway  
San Diego, CA 92101

Attn: Director, Recuperator Business

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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 and within thirty (30) days of any termination of this Agreement in accordance with Paragraph 7 above, 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.

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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 officers.

CAPSTONE TURBINE CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ AKE ALMGREN

By: /s/ GARY STROUP

Title: President & CEO

Title: President

Date: August 7, 2000

Date: August 3, 2000

CAPSTONE TURBINE CORPORATION

SOLAR TURBINES INCORPORATED

By: /s/ WILLIAM TREECE

By: /s/ DAVID W. ESBECK

Title: Sr. VP Strategic Technology

Title: Vice President

Date: August 7, 2000

Date: August 4, 2000

