MURPHY SHENEMAN JULIAN & ROGERS A Professional Corporation J. CRAIG GILLILAND (S.B. No. 080090) MARGARET SHENEMAN (S.B. No. 072718) 101 California Street, Suite 3900 3 ORIGINAL San Francisco, CA 94111 Telephone Number: (415) 398-4700 Facsimile Number: (415) 421-7879 5 Attorneys for the Official Unsecured Creditors' Committee and F. Wayne Elggren, as Estate 6 JUL 23 1999 Manager 7 BANKRUPTCY COURT OAKLAND, CALIFORNIA 8 UNITED STATES DISTRICT COURT 9 NORTHERN DISTRICT OF CALIFORNIA 10 Chapter 11 11 In re Case No. 96-44426 T KENETECH WINDPOWER, INC., 12 Debtor. ORDER GRANTING AMENDED FINAL 13 FEE APPLICATION OF ARTHUR ANDERSEN LLP FOR ALLOWANCE 14 AND PAYMENT OF COMPENSATION 15 Date: July 19, 1999 Time: 10:00 a.m. 16 Courtroom 201 Place: 1300 Clay Street 17 The Honorable Leslie Judge: Tchaikovsky 18 19 20 On July 19, 1999, a hearing was held in the above-captioned case before the 21 22 undersigned United States Bankruptcy Judge on the "Partial Objection Of Estate Manager 23 And Creditors' Committee To Final Fee Application Of Arthur Andersen LLP For Allowance And Payment Of Compensation". Counsel for the Committee and the Estate Manager, Mark 24 A. Olson, a member of Murphy Sheneman Julian & Rogers, stated that the parties had 25 resolved the dispute regarding Andersen's claim by their Stipulation for Resolution of 26 Administrative Claim of Arthur Anderson ("Stipulation"), a copy of which is attached hereto 27 as Exhibit A. 28

ORDER GRANTING AMENDED FINAL FEE APPLICATION OF ARTHUR ANDERSEN LLP - 96-44426 T

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A PROFESSIONAL CORPORATION 1. Andersen's final fees in the amount of \$265,436.92, of which \$222,277.14 is attributable to prior interim fee awards and \$43,159.78 is attributable to the "Claim" (as defined in the Stipulation), incurred during the period of October 1, 1998 through April 7, 1999, are allowed as an expense of administration in KWI's Chapter 11 case; Anderson's final expenses in the amount of \$1,308.00, of which \$1,308.00 is attributable to prior interim fee awards, are allowed as an expense of administration in KWI's Chapter 11 case:

- 2. KWI is authorized and directed to pay Andersen \$43,159.78; and
- 3. The Stipulation (attached hereto as Exhibit A) is approved and Andersen's fees and expenses (as set forth more fully in the Stipulation), which includes the amounts allowed under Paragraph 1 of this Order are finally allowed as an expense of administration in KWI's Chapter 11 Case under 11 U.S.C. Section 330(a) and 503(b)(2).

DATED: July 13, 1999

THE HONORABLE LESLIE TCHAIKOVSKY UNITED STATES BANKRUPTCY JUDGE

1 2 3 4 5 6 7 8 9	MURPHY SHENEMAN JULIAN & ROGERS A Professional Corporation MARGARET SHENEMAN (S.B. No. 072718) J. CRAIG GILLILAND (S.B. No. 080090) 101 California Street, Suite 3900 San Francisco, CA 94111 Telephone Number: (415) 398-4700 Facsimile Number: (415) 421-7879 Attorneys for the Official Unsecured Creditors' Committee and F. Wayne Elggren as Estate Manager UNITED STATES BAT NORTHERN DISTRIC	NKRUPTCY COURT
11	In re	Chapter 11
12	KENETECH WINDPOWER, INC.,	Case No. 96-44426 T
13	Debtor,	STIPULATION FOR RESOLUTION OF
14	: :	ADMINISTRATIVE CLAIM OF ARTHUR ANDERSEN LLP
15		DATE: July 19, 1999
16		TIME: 9:30 a.m. PLACE: Courtroom 201 1300 Clay Street
17		Oakland, California The Honorable Leslie
18		Tchaikovsky
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21	This Stipulation (the "Stipulation") is executed as of July 19, 1999, by and	
22	among the Unsecured Creditors' Committee of KENETECH Windpower, Inc. (the	
23	"Committee"), of KENETECH Windpower, Inc., ("KWI"), by and through F. Wayne	
24	Elggren as the Estate Manager ("Estate Manager"), Arthur Andersen LLP ("Creditor"), and	
25	KENETECH Corporation ("K Corp") (collectively, the "Parties"), by and through their	
- 26	respective counsel, with reference to the following facts and recitals:	
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·	STIPULATION FOR RESOLUTION OF ADMINISTRATIVE CLAIM OF ARTHUR ANDERSEN LLP	

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PROFESSIONAL CORPORATION A. KWI is the reorganized debtor in a case under chapter 11 of title 11 of the United States Code (the "Bankruptcy Code"), currently pending in the United States Bankruptcy Court for the Northern District of California (the "Bankruptcy Court") as Case No. 96 44426 T (the "Bankruptcy Case").

- B. Creditor has timely filed a proof of an unsecured, priority administrative claim against KWI in the amount of \$99,398.31 in fees and \$504.00 in expenses, plus \$13, 159.78 for property tax services (the "Claim"). Creditor alleges its Claim arises from unpaid invoices for accounting and tax services rendered by Creditor to KWI.
- C. The Committee and the Estate Manager have disputed certain portions of Creditor's Claim because they believe that K Corp is obligated to pay certain of Creditor's fees for services in connection with the preparation of state and federal income tax returns and assembly of documents and records relevant to income tax returns, as set forth in the May 26, 1998 Order Authorizing and Approving Settlement Agreement, and the May 13, 1998 Settlement Agreement and Release between KWI and K Corp and other parties attached as an exhibit to said Order (collectively, the "K Corp Settlement").
- D. The KWI, the Committee, Creditor, and K Corp desire to resolve, settle, and compromise, on the terms and conditions set forth below, all outstanding issues regarding the Creditor's Claim against KWI.

AGREEMENT

In consideration of the foregoing and for other good and valuable consideration, the receipt of which is hereby acknowledged, the Committee, Creditor, KWI, and K Corp hereby agree to the following:

1. Reduced Claim Amount:

A. In full and complete resolution of all issues regarding the amount, priority, and validity of the Claim, Creditor hereby is allowed in the Bankruptcy Case a general, unsecured, priority Administrative Claim in the amount of:

\$30,000 with respect to the income tax preparation services described in Exhibit A of the Claim and the document management services described in Exhibit B of the Claim

plus \$13,159.78 with respect to the contingency fee for property tax services described in Exhibit C of the Claim

\$43,159.78 Total Allowed Administrative Claim

- B. The Claim shall be, and shall receive distributions as, an "Allowed Administrative Claim," under and as defined in the Debtor's and Creditors' Committees' First Amended Plan of Reorganization (October 22, 1998) (the "Plan").
- C. Creditor agrees that it shall not file any additional proofs of claim in the Bankruptcy Case related to the services or expenses described in the Claim and that any portion of the Claim that is not expressly allowed by this Stipulation shall be deemed withdrawn and disallowed. Creditor agrees it shall not seek payment or reimbursement from KWI, the KWI estate created under the Plan, the Estate Manager, or the Committee of any of Creditor's fees and expenses for the services described in Creditor's Claim, except to the extent allowed by this Stipulation.
- 2. Reservation of Rights: Nothing in this Stipulation shall waive, bar, prejudice, or effect the right of Creditor to seek from K Corp the payment of fees and expenses described in the Claim which are not paid by KWI or the KWI estate, nor the right of K Corp to pay or to object to payment of such fees and expenses, all rights to which are reserved by Creditor and K Corp. K Corp agrees it shall not seek payment or reimbursement from KWI, the KWI estate created under the Plan, the Estate Manager, or the Committee of any of Creditor's fees and expenses for the services described in Creditor's Claim.
- 3. Representations: Creditor represents and warrants that (a) it has full power and authority to execute and perform this Stipulation; and (b) it has not sold or otherwise transferred any interest in the claims allowed or released by this Stipulation and is the sole and current owner of all such claims and rights.

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CLAIM OF ARTHUR ANDERSEN LLP

- 4. <u>Successors and Assigns</u>: This Stipulation shall be binding upon, and shall inure to the benefit of Creditor, KWI, the Estate Manager, the Committee, and K Corp and their respective representatives, successors, and assigns.
- 5. Applicable Law: Except for issues related to the approval of this Stipulation by the Bankruptcy Court, which shall be governed by the Bankruptcy Code, this Stipulation shall be governed in all respects, including validity and interpretation, by the laws of the State of California.
- 6. Representation By Counsel: The Parties acknowledge that each has had the opportunity to be represented by legal counsel of its choosing throughout the negotiations that preceded the execution of this Stipulation and that each has chosen whether or not to seek such independent counsel. Any rule of construction providing for ambiguities to be construed against the draftsperson of this Stipulation therefore shall be inapplicable.
- 7. No Admissions: Neither this Stipulation, nor any of its terms, nor any negotiations or proceedings in connection with this Stipulation, shall constitute or be evidence of an admission on the part of any Party of any liability or wrongdoing whatsoever, or the merit or lack of merit of any claim or defense.
- 8. Consent To Jurisdiction and Venue: The Parties consent to the determination by the Bankruptcy Court, in a contested matter as a "core proceeding" (as such term is defined in 28 U.S.C. § 157 or any successor provision), of any and all disputes concerning this Stipulation, including disputes involving the validity, interpretation, effect, or enforcement of this Stipulation, and the Parties agree that the Bankruptcy Court shall be the exclusive forum to hear, determine and enter appropriate orders and judgments regarding all such disputes.
- 9. Effective Date: Following execution by the Parties, this Stipulation shall become effective when, but only when, the Bankruptcy Court authorizes and approves this Stipulation and enters an order allowing Creditor's Claim against KWI in the amount set forth in Paragraph 1.A. hereof. If this Stipulation ultimately does not become effective by October 19, 1999 (or such later date as all the Parties hereto may agree in writing), the

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undertakings, compromises, and releases set forth herein shall be of no further force and effect, and the Parties shall be returned to the *status quo ante* as if the Stipulation had not been executed.

10. <u>Counterparts</u>: This Stipulation may be executed in several counterparts, all of which when taken together will constitute one agreement. This Stipulation may be executed by telecopied signatures, which execution shall have the same force and effect as an original signature hereon.

ARTHUR ANDERSEN LLP

By: Tassilo von Koch

KENETECH Windpower, Inc.

By: F. Wayne Elggren Estate Manager

Unsecured Creditors' Committee of KENETECH Windpower, Inc.

Margaret Sheneman, Esq.
Counsel for the Committee

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STIPULATION FOR RESOLUTION OF ADMINISTRATIVE CLAIM OF ARTHUR ANDERSEN ILP

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STIPULATION FOR RESOLUTION OF ADMINISTRATIVE CLAIM OF ARTHUR ANDERSEN LLP

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